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## Radical Integration

Michelle Adams<sup>†</sup>

It is a beautiful summer day.

An aunt and her nine-year-old niece, both black, are driving from New York City to a Long Island resort to visit white friends. The aunt lives in a racially mixed community, her niece in a predominantly black neighborhood. Their friends have a modest boat docked at a marina which has a large pool. While the scenery is lovely, the drive is long and the day is very hot. The niece begins to fidget, and the aunt tells her niece to be patient because they can swim in the pool as soon as they reach their destination. The niece's excitement at the prospect of a swim is palpable. Finally, after their long drive, they arrive and the pool beckons; nine or ten children are happily splashing and playing as several adults look on. The aunt takes her niece to the restroom to change. As they emerge from the restroom, newly changed into their swimsuits, the niece stops and grasps her aunt's arm. The aunt leans down puzzled and asks: "What's the matter?" Her niece, pointing to the pool, replies, "Auntie, I think that's only for white people." There is a long, terrible pause, after which the aunt says firmly, "No, it's not, and we are going to get in that pool." The niece, however, is suddenly no longer in the mood for a swim. "Auntie, I don't

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want to get in the pool." The aunt tries to reassure her niece. "Come on, it will be fine. It's hot. Don't you want to swim?" But the niece is resolute; she refused to swim that day.

The year? 1999. This story is true; I am the aunt.

## I

### INTRODUCTION

Since the day it happened, this experience with my niece has haunted me. How are we to interpret this story? How could a black child in 1999 plausibly believe that the swimming pool was for "whites only"? The issues implicit in this story, which I offer as metaphor for the inherent complexity of the continuing struggle for black liberation, can be unpacked using two perspectives. One focuses on the history of segregation—of white and black separateness; and the other focuses on black identity formation—the essential question of what it means to be black.

One interpretation of this story is that racial integration has been insufficient. The aunt was faced with a swimming pool inhabited entirely by whites, eliminating her niece's desire to swim. In this framework, the aunt's suggestion that her niece "get in that pool" was an attempt to teach both her niece and the white swimmers the value of boundary crossing. For the white children, their settled, if unconscious, expectations of place and space would be disrupted. At the same time, her niece would learn that spaces inhabited solely by whites would not be theirs in perpetuity. From this perspective, the aunt's urging of the niece to "get in the pool" was grounded in the American civil rights history of lunch counter sit-ins that represented black encroachment on traditionally white spaces. This victory over segregation could only be attained by breaking down barriers through entering and occupying white space. To the extent that integration requires sacrifice—clearly the niece was experiencing some emotional discomfort—that price should be willingly paid. I call this framework for understanding the story the "present-day integrationist" perspective.

An alternate view frames the story from the perspective of identity formation and membership in a racially defined community. I will call this view the "identity-based, community-centered" perspective. In this framework, the child's presence in the pool was not necessary to guarantee her liberation. Indeed, her presence in the pool may well have threatened her ultimate ability to define herself on her own terms. Her refusal to take advantage of a swimming opportunity on a hot day was not a self-imposed detriment but an act of self-protection and self-definition, a tacit acknowledgement of the continuing reality of *de facto* segregation. From this perspective, the most appropriate site for an individual's racial or ethnic

identity formation is within the context of some appropriately constituted "black community."<sup>1</sup>

We might credit the child's intuition. Perhaps her estimation of the situation was correct, not with respect to the law of public accommodations,<sup>2</sup> but with respect to the appropriate cultural norms of that moment. Maybe the pool really was for "whites only," in the sense that it was intended for whites, whites used it, and whites expected to be able to use it. From this perspective, the child was simply acknowledging the cultural reality of the moment, and chose not to disrupt that reality by "integrating" the pool. Here, the notion of integration goes beyond black entry into white physical space, and enters the realm of psychographics:<sup>3</sup> what does it mean to be black when faced with a white environment? From this perspective, the niece's refusal was an act of self-description. By clearly and forcefully stating what she would not do, and by extension what she was not, she was powerfully articulating what she was. *This is a white pool, and I am not white.* Black is not white. Black is something different; something separate that needs to be protected, to be guarded from encroachment by outside forces. The identity-based, community-centered reading of our story would not necessarily place a premium on the need to "integrate" any particular political, educational, economic, or social hierarchy (as in this case).

This anecdote crystallizes a key tension present in the struggle for racial equality: should we focus on "integration" or on developing black individuals within a materially enhanced "black community"? Today, this fundamental tension endures, presenting itself in new contexts and raising new problems. In my view, neither of the standard perspectives on the story—the present-day integrationist perspective nor the identity-based, community-centered approach—provides a complete or satisfying strategy for achieving black liberation.

The present-day integrationist view is too narrow for at least two reasons. First, integration as it is commonly perceived today understates its vital structural component—the concept that the eradication of racial segregation was an essential linchpin of the battle against white supremacy—a

1. Of course, there is no single "black community." Instead, there are many such communities defined and bounded by geography, class, religious affiliation and a host of other simultaneously unifying and separating characteristics. In this Article, I refer to the "black community" with many of the same caveats that animated Regina Austin's path-breaking article, "*The Black Community, Its Lawbreakers, and a Politics of Identification*," 65 S. CAL. L. REV. 1769 (1992). In that article, Austin argued that notwithstanding the existence of multiple, fluctuating black communities, the concept of the "black community" still retains significant salience. *Id.* at 1769-71. Thus, although the "black community" is often idealized, it "exists out there, somewhere." *Id.* at 1769.

2. In 1999, a marina that was held open to the public surely could not have barred black bathers on the basis of their race. See Civil Rights Act of 1964, 42 U.S.C. § 2000 (1994).

3. "Psychography" is the "description of an individual's mental characteristics and their development," that is, an individual's "psychological biography." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1833 (1981).



concept that was at the core of earlier drives for racial equality.<sup>4</sup> Rather, integration today is synonymous with "assimilation," the process whereby "a minority group gradually adopts the customs and attitudes of the prevailing culture."<sup>5</sup> Second, the present-day integrationist vision also oversimplifies the emotional discomfort and identity sacrifice that are associated with integration. It is silent on the tension created by the desire to create a positive and meaningful racial identity in a multi-racial environment.

Integration no longer captivates the progressive imagination; it no longer moves those concerned with eliminating racial inequality. First, to the extent that integration signals assimilation, integration no longer appeals to many blacks.<sup>6</sup> Blacks are far more likely than whites to support "federal government intervention to ameliorate racial inequality."<sup>7</sup> But at the same time, many blacks would not identify as integrationists.<sup>8</sup> Indeed, there is an increasing belief that integration is no longer a viable social policy, but rather a failed social experiment.<sup>9</sup> Many (although certainly not all) blacks have rejected integration largely out of frustration with continuing white resistance which has resulted in no more than a token black presence in white communities, particularly in residential areas and secondary schools, areas where maximum interracial intimacy might take place. Many blacks have also voiced philosophical objections to integration,

4. See discussion *infra* Part I.

5. For the definition of "assimilation" cited here, see Dictionary.com, <http://dictionary.com> (last visited Oct. 4, 2005).

6. See Harry T. Edwards, *The Journey From Brown v. Board of Education to Grutter v. Bollinger: From Racial Assimilation to Diversity*, 102 MICH. L. REV. 944, 958 (2004).

7. Steven A. Tuch et al., *Fifty Years after Myrdal: Blacks' Racial Policy Attitudes in the 1990s*, in RACIAL ATTITUDES IN THE 1990S: CONTINUITY AND CHANGE 226, 236 (Steven A. Tuch & Jack K. Martin eds., 1997).

8. Indeed, in some instances black parents have challenged public school desegregation plans. See, e.g., *Comfort ex rel. Neumeyer v. Lynn School Committee*, 283 F. Supp. 2d 328 (D. Mass. 2003) (upholding the Massachusetts Racial Imbalance Act against constitutional challenge brought by a group of parents, including black parents), *aff'd*, 418 F.3d 1 (1st Cir. 2005); SHERYLL CASHIN, *THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM* xii-xiii (2004) ("Black people, on the other hand, have become integration weary. Most African Americans do not crave integration, although they support it. What seems to matter most to black people is not living in a well-integrated neighborhood but having the same access to the good things in life as everyone else."); Charisse Jones, *Years on Integration Road: New Views of an Old Goal*, N.Y. TIMES, Apr. 10, 1994, § 1, at 1 (reporting that many blacks are reevaluating their commitment to integration); Greg Winter, *Long After Brown v. Board of Education, Sides Switch*, N.Y. TIMES, May 16, 2004, § 1, at 27 ("Many school districts, even some that once doggedly resisted integration, now argue that diversity benefits everyone and they pursue it avidly. And yet they sometimes find themselves fending off or succumbing to legal challenges from the very minority families who [sic] integration was meant to benefit.").

9. See, e.g., ROY BROOKS, *INTEGRATION OR SEPARATION: A STRATEGY FOR RACIAL EQUALITY* 104 (1996) ("When all the probing, postulating, and proselytizing about the American race problem comes to an end, one thing will remain clear beyond peradventure: the traditional liberal solution to the problem - racial integration - is not the right answer for most African Americans."); Winter, *supra* note 8 (reporting on black parents who actively oppose school desegregation efforts and quoting one black parent as saying, "Integration? What was it good for? . . . They were just setting up our babies to fail.").

given the perception that it is grounded in an implicit assumption that the "black community" is somehow the source of the problem, and that the presence of whites in a particular social, employment, educational, or political hierarchy is necessary in order for blacks to progress.<sup>10</sup> Second, while white support for integration in principle is at an all-time high, support for integration as an affirmative social policy that would result in putting blacks and whites in close social and political proximity is much weaker.<sup>11</sup> While neither universal nor uniform, white aversion to interracial contact has been a fixture of the social and political landscape throughout the desegregation era.<sup>12</sup> Given that reality, many view integration as a quixotic odyssey.<sup>13</sup>

Finally, integration is hardly a leading philosophy among progressives or in the legal academy. While integration has been championed by a relatively small group of committed scholars such as Gary Orfield, Florence Wagman Roisman, and John Powell, "critical race theory," a highly influential progressive movement comprised of a "collection of activists and scholars interested in studying and transforming the relationship among race, racism, and power,"<sup>14</sup> is largely indifferent to the project.

This aversion may be accounted for, at least in part, by critical race theory's consistent attack on liberalism, and in particular, notions of "colorblindness."<sup>15</sup> Integration resonates in liberalism because of liberalism's perceived insistence on race neutrality and a "broader set of liberal images" such as "truth, universalism, and progress,"<sup>16</sup> and avoidance of dialogue steeped in race consciousness.<sup>17</sup> This concern with formal notions

10. BROOKS, *supra* note 9, at 247.

11. Most white Americans agree with integration in principle. Thus, there has been "a remarkably large, wide-ranging, and generally consistent movement toward white acceptance of the principles of equal treatment and integration in most important areas of American life." HOWARD SCHUMAN ET AL., *RACIAL ATTITUDES IN AMERICA: TRENDS AND INTERPRETATIONS*, 120-21 (1997). At the same time, "there is noticeably less support [among whites] for the implementation of [integration] principles than for principles as such." *Id.* at 192; see also Katherine Tate & Gloria J. Hampton, *Changing Hearts and Minds: Racial Attitudes and Civil Rights*, in *LEGACIES OF THE 1964 CIVIL RIGHTS ACT* 167, 178 (Bernard Grofman ed., 2000) (reporting that whites support integration in principle, but are "less likely today to support government enforcement of civil rights, except in the area of public accommodations") (italics in original).

12. See CHARLES T. CLOTFELTER, *AFTER BROWN: THE RISE AND RETREAT OF SCHOOL DESEGREGATION* 8 (2004).

13. See, e.g., J. Phillip Thompson, *Beyond Moralizing*, *THE BOSTON REVIEW*, Summer 2000, <http://bostonreview.net/BR25.3/thompson.html> ("Trying to legally force white Americans to integrate against their will, in a country where they are the voting majority, has not worked and it will not").

14. RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* 2 (2001).

15. *Id.* at 3, 7.

16. Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758, 772 (1990).

17. See *id.* at 790. For our purposes, I will define "liberalism" as grounded in the claim that we are separate, individual persons, each with our own aims, interests, and conceptions of the good. Liberalism, as a political theory, seeks a framework of rights that will enable us to realize our capacity

of equality is problematic, however, because it tends to privilege individual autonomy over the needs of minority groups.<sup>18</sup> As a result, critical race scholars and progressives find it difficult to simultaneously embrace integration while at the same time critiquing colorblindness.<sup>19</sup> Gary Peller argued, for example, that notions of individuality and race neutrality privileged in a liberal vision do little to address a system of racial subordination borne out of a clash between groups and worldviews.<sup>20</sup> For Peller, integration is limited by the fact that it accepts the underlying system of privilege and status distribution, rather than acting as a mechanism for achieving revolutionary change.<sup>21</sup>

As a result of concerns like these, the identity-based, community-centered view eclipsed the integrationist vision and achieved ascendancy because of its emphasis on black agency and racial difference. In this framework, blacks define themselves, unencumbered by the demands of a white majority. This view also holds that the black community, with appropriate support and no longer encumbered by *de jure* segregation, is perfectly capable of nurturing, educating, and developing successful black individuals.<sup>22</sup>

Consider, for instance, the emergence of black, middle-class suburban enclaves, of which Sheryll Cashin has written so trenchantly.<sup>23</sup> While the desire for such living arrangements is multifaceted, Cashin identifies voluntary separation and "black pride of place" as a significant motivating

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as free moral agents, consistent with a similar liberty for others. See also WILL KYMLICKA, *LIBERALISM, COMMUNITY AND CULTURE* 9-20 (1991).

18. See Neil Gotanda, *A Critique of "Our Constitution is Color-Blind,"* 44 STAN. L. REV. 1, 7-8 (1991).

19. Indeed, several prominent scholars have offered significant critiques of integration either as a political ideology or as a social policy goal. See John O. Calmore, *Random Notes of an Integration Warrior*, 81 MINN. L. REV. 1441, 1450 (1997) ("[I]ntegration for the group is problematic for four primary reasons: (1) its anchor is individualistic assimilation, (2) its progress is gradual, (3) its acceptable extent is tokenistic, and (4) worst of all, its unintended consequence is to support and reinforce white dominance and hegemony."); see also Alex M. Johnson, Jr., *Bid Whist, Tonk, and United States v. Fordice: Why Integrationism Fails African-Americans Again*, 81 CALIF. L. REV. 1401, 1402 (1993) (arguing that *United States v. Fordice* was wrongly decided "as a matter of social policy because it is built upon a premise of integrationism, first articulated in *Brown*, that has failed our society. Simply put, *Fordice* is wrong because *Brown* was a mistake."); Charles J. Ogletree, Jr., *From Brown to Tulsa: Defining Our Own Future*, 47 HOW. L.J. 499, 578 (2004) (arguing that reparations for those in the black community who have not enjoyed the benefits of affirmative action are a way to "finally move beyond the idle promises of full integration and to invest in our communities in ways that will generate solutions that are transformative").

20. See Gary Peller, *Race Consciousness*, 1990 DUKE L.J. 758, 779 (1990).

21. See *id.* at 778-79.

22. BROOKS, *supra* note 9, at 248 ("African American communities can nurture and guide the individual directly or indirectly through the family by following a pattern similar to that of immigrant communities. African American communities can, in other words, act as either a resting point or an end-point, a way-station to racial integration or a final destination.").

23. CASHIN, *supra* note 8, at 134.

factor.<sup>24</sup> As Cashin puts it, for some blacks “it just feels good to live in a [place] where black people are in control.”<sup>25</sup> Harry T. Edwards has also provided a useful description of this phenomenon:

Today, African Americans, both young and old, embrace characteristics and cultural heritages that distinguish them from other groups. And even though they would not accept a societal mandate forcing racial separation, there are African Americans who elect to live apart from white society, especially in social realms. . . . In other words, there is something unique and comforting about being with members of your own race that draws some African Americans together.<sup>26</sup>

Moreover, blacks’ social preferences for living with other blacks can also be explained by a “safe harbor” theory. In a society where outward displays of racism remain and where subtle slights are commonplace, many blacks seek the warm embrace of their own as shield and sustenance against the vicissitudes and hostilities of the larger world.<sup>27</sup>

Like the integrationist approach, the identity-based, community-centered perspective is also unduly limited. This framework neglects the importance of integration from a structural standpoint and underestimates the project by assuming that assimilation, defined as Eurocentric hegemony, must go hand-in-hand with integration. Consequently, the binary nature of the two perspectives above suggests a need for a more cohesive approach that might borrow elements of each. The goal of this Article is to provide a new discourse for thinking about racial equality that synthesizes key elements of both approaches. I call this approach “radical integration.” My aim is to reinvigorate and reinvent integration by unlocking its powerful promise while simultaneously addressing the challenges of black identity formation.

Radical integration takes into account the transformative potential of integration, while at the same time offering at least some explanation of how individuals might form a stable, positive black identity within an integrated context. This new lens of radical integration would function as a framework to assess proposed policy initiatives, political platforms, social and cultural developments, and of course, the development of legal doctrine.

This Article argues that integration—specifically, radical integration—should both form the centerpiece of a progressive social agenda and be aggressively advanced as a political goal. While a background

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24. *Id.* at 130.

25. *Id.* at 132.

26. Edwards, *supra* note 6, at 959 (citations omitted). Edwards terms this phenomenon the “Valuing-Our-Identities” approach. *Id.* at 958.

27. CASHIN, *supra* note 8, at 17-19; *see also* ELLIS COSE, *THE RAGE OF A PRIVILEGED CLASS* 11-26 (1994).



assumption of this Article is that racial integration in a democracy as diverse as ours is a moral imperative, at the same time, my argument does not hinge on that notion. If it is to have any appeal to those who are best positioned to advance it or be successful as an ideology that spurs action, integration must be comprised of something more than an abstract sense of justice. Radical integration views racial segregation not merely as a particular form of race discrimination, but as the manifestation of contemporary white supremacy. At the same time, radical integration also recognizes that a strong black identity is necessary armor in a white-dominated world.

In Part I of this Article, I summarize the historical "assimilation versus isolation" debate in the black community. I then define my vision of radical integration, which synthesizes core concerns of both the integration model and the identity-based, community-centered model. I identify two core themes that characterize radical integration: a renewed understanding of the evils of segregation, and a nuanced understanding of the complexities of identity formation within a community setting.

Part II delves into the first core theme—the evils of segregation. I identify the structural disadvantages associated with segregation and argue that a renewed appreciation of segregation is necessary in the struggle for black liberation. Within the realm of public policy, I offer specific examples of the radical integration vision in which true, "radical" integration led to significant improvements in the economic well-being of black people.

Part III delves into the second core theme of identity formation. First, I explore individualism as a concept shared by both the integrationist and identity-based, community-centered models. I argue that a nuanced understanding of the importance of individualism serves to harmonize these two approaches. Next, I argue that a strong racial or ethnic identity is a precursor to success in American society. Then, I analyze the possibility of individual identity formation within an integrated environment. Finally, I argue that although racial identity formation should form a key element of radical integration, an undue emphasis on black authenticity can result in offensive retreat rather than sustained engagement with the white community. In sum, radical integration promises a renewed vision of black liberation by refocusing on the need to eradicate segregation and on supporting and maintaining the psychological need for a black identity.

## I

### INTRODUCING RADICAL INTEGRATION

#### *A. Precursors*

The integration and the identity-based, community-centered perspectives, are both instantly recognizable and have a history and pedigree in

black social and political thought.<sup>28</sup> As Harold Cruse asserted, "American Negro history is basically a history of the conflict between integrationist and nationalist forces in politics, economics, and culture, no matter what leaders are involved and what slogans are used."<sup>29</sup> To be sure, Cruse's assessment oversimplifies the shifting and often overlapping ideologies that have defined black political thought and debate.<sup>30</sup> For instance, a rigid "integrationist" versus "nationalist" dichotomy does not fully account for the view that the full development of the black community is a necessary precondition for successful integration.<sup>31</sup> But at the same time, a fundamental tension existed between those who asserted that the "goal is not to take black children out of the black community and expose them to white middle-class values; the goal is to build and strengthen the black community,"<sup>32</sup> and those who have viewed such an approach as a "bitter retreat from the possibility of the attainment of the goals of any serious

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28. In a thorough analysis of black political thought, Michael C. Dawson has identified six black political ideologies that have informed black political debate since the early nineteenth century: radical egalitarian, disillusioned liberal, black Marxist, black nationalist, black feminist, and black conservative. MICHAEL C. DAWSON, *BLACK VISIONS: THE ROOTS OF CONTEMPORARY AFRICAN-AMERICAN POLITICAL IDEOLOGIES* 10-15 (2001). Of those, the two with the longest pedigree within black political debate are black nationalism and radical egalitarianism. *Id.* at 21. According to Dawson, radical egalitarianism, a form of black liberalism, is a more optimistic approach to black political debate which emphasizes the possibility that America can live up to its promise of equality and that a multiracial democracy can be formed. *See id.* at 15-16. Radical egalitarianism stresses, among other things, "respect for individual liberty," and considers vital to the quest for racial equality "[a]lliances with all other people of good will, including white Americans. . . ." *Id.* at 17. A primary critique lodged by black nationalists against radical egalitarians has been that they are "shameless assimilationists who lack sufficient black pride to invest in building the institutions and culture of the black community." *Id.* at 272. Dawson suggests that while some radical egalitarians would prefer that race become an "unimportant marker in American society," others would see assimilation as a matter of individual choice and simultaneously emphasize the importance of black institutions as fundamental to achieving the "very idea of human brotherhood." *Id.* at 272-73. The integrationist perspective is centered within the radical egalitarian political ideology.

29. HAROLD CRUSE, *THE CRISIS OF THE NEGRO INTELLECTUAL: A HISTORICAL ANALYSIS OF THE FAILURE OF BLACK LEADERSHIP* 564 (1984); *see also* JAMES WELDON JOHNSON, *NEGRO AMERICANS, WHAT NOW?* (1934), *reprinted in* *BLACK PROTEST THOUGHT IN THE TWENTIETH CENTURY* 164, 168 (August Meier et al. eds., 1971) [hereinafter *BLACK PROTEST THOUGHT*] ("Throughout our entire intellectual history there has been a division of opinion as to which of these two divergent courses [integration or separation] the race should follow.")

30. *See* DAWSON, *supra* note 28.

31. *See generally* KWAME TURE & CHARLES V. HAMILTON, *BLACK POWER: THE POLITICS OF LIBERATION IN AMERICA* 44 (1992) (arguing that "Black Power" rested on the fundamental premise that: "*Before a group can enter the open society, it must first close ranks.* By this we mean that group solidarity is necessary before a group can operate effectively from a bargaining position of strength in a pluralistic society.") (italics in original); *see also* W.E.B. DU BOIS, *DOES THE NEGRO NEED SEPARATE SCHOOLS?*, *reprinted in* *THE OXFORD W.E.B. DU BOIS READER* 423, 431 (Eric J. Sundquist ed., 1996) ("Other things being equal, the mixed school is the broader, more natural basis for the education of all youth. It gives wider contacts; it inspires greater self-confidence; and suppresses the inferiority complex. But other things seldom are equal, and in that case, Sympathy, Knowledge, and the Truth, outweigh all that the mixed school can offer.").

32. TURE & HAMILTON, *supra* note 31, at 55.



racial integration in America. . . ."<sup>33</sup> Indeed, a complete examination of the discussion and debates among black leaders and intellectuals about the propriety of integration versus more nationalist-oriented approaches to achieving racial equality is well beyond the scope of this article. Suffice it to say, however, that the discussion has occupied many notable participants<sup>34</sup> over several generations.

Consider, for instance, the debate between Booker T. Washington and W.E.B. Du Bois during the early twentieth century: Du Bois "called for integration," while Washington's approach was accommodationist.<sup>35</sup> Washington advocated "vocational training for Black workers, largely in separate Black schools, so that they could become economically self-sufficient."<sup>36</sup> A generation later, Marcus Garvey reacted to the growing prominence of the NAACP by sharply "articulat[ing] the alienation of the black masses."<sup>37</sup> Garvey argued that America's race problem could only be solved by black racial solidarity and, ultimately, blacks' voluntary return to Africa.<sup>38</sup> Thus, from Garvey's perspective, the NAACP's positions "aspire[d] to social equality with the whites, meaning thereby the right to intermarry and fraternize in every social way." To Garvey, this was a "dangerous 'race destroying doctrine.'"<sup>39</sup>

In the 1930s, James Weldon Johnson succinctly described the ideological debate about racial equality in the black community.<sup>40</sup> For Johnson, the debate boiled down to two broad choices: "the continuation of our efforts to achieve integration"<sup>41</sup> and the desire to make the race "into a

33. Kenneth Clark, *The Present Dilemma of the Negro*, 53 JOURNAL OF NEGRO HISTORY 1, 8 (1968), reprinted in BLACK PROTEST THOUGHT, *supra* note 29, at 610, 618.

34. Edwards, *supra* note 6, at 949 (noting that the "meaning and desirability of integration has long been the subject of disagreement among African Americans," including "Booker T. Washington, W.E.B. Du Bois, Marcus Garvey, James Weldon Johnson, Walter White, A. Philip Randolph, Bayard Rustin, Dr. Martin Luther King, Jr., Ella Baker, Roy Wilkins, Whitney Young, James Farmer, Malcolm X, Stokely Carmichael, and Angela Davis, to name but a few").

35. While it is true that Du Bois's views on integration waxed and waned over much of his life, "[n]onetheless, for much of his career, Du Bois saw integration as the ultimate object of self-segregation: separatism, in his view, was a strategy that would enable 'co-operation and incorporation into the white group on the best possible terms.'" *Id.* at 950 (citations omitted); see also W.E.B. Du Bois, *Segregation*, 41 THE CRISIS 1 (1934), reprinted in BLACK PROTEST THOUGHT, *supra* note 29, at 158, 159-61 (arguing that the "thinking colored people of the United States must stop being stampeded by the word segregation" while at the same time granting the virtues of integration; "in the long run, the greatest human development is going to take place under experiences of widest individual contact").

36. Edwards, *supra* note 6, at 949.

37. BLACK PROTEST THOUGHT, *supra* note 29, at 101.

38. See Marcus Garvey, *Aims and Objects of Movement for Solution of Negro Problem*, in PHILOSOPHY AND OPINIONS OF MARCUS GARVEY (Amy Jacques-Garvey, II ed., 1925), reprinted in BLACK PROTEST THOUGHT, *supra* note 29, at 101, 103.

39. *Id.* at 105 (explaining that if blacks could not exist within a country of their own, then the black nation "will have to hearken to the demand of the aggressive, 'social equality' organization, known as the National Association for the Advancement of Colored People").

40. See JOHNSON, *supra* note 29, at 164-76.

41. *Id.* at 168.

self-contained economic, social, and cultural unit."<sup>42</sup> While Johnson acknowledged the sincerity of each side, his view was that integration was the most viable and the most attractive alternative.<sup>43</sup> Isolation was untenable because duplication of the "economic and social machinery of the country"<sup>44</sup> was impractical. Isolation also signaled the acceptance of permanent second-class status.<sup>45</sup> From Johnson's perspective, the health of black institutions was "contingent upon our interrelationship with the country as a whole."<sup>46</sup> Consequently, Johnson supported the idea that "the only salvation worth achieving lies in the making of the race into a component part of the nation, with all the common rights and privileges, as well as duties, of citizenship."<sup>47</sup> On this view, integration was pursued so that blacks could "gain full admission to [U.S.] citizenship."<sup>48</sup>

This tension between integration and "an acknowledgement of our isolation and the determination to accept and make the best of it,"<sup>49</sup> was perhaps most pronounced during the Civil Rights Movement.<sup>50</sup> In 1962, Malcolm X argued that integration was folly, and that black liberation could only be achieved through voluntary separation.<sup>51</sup> Robert S. Browne called for the "formal partitioning of the United States into two totally separate and independent nations, one white and one black."<sup>52</sup> Further, Stokely Carmichael and Charles V. Hamilton, advocates of "Black Power," called integration a "subterfuge for the maintenance of white supremacy" because it reinforced the idea that "'white' is automatically superior and 'black' is by definition inferior."<sup>53</sup>

In contrast, the integration vision most closely associated with the Civil Rights Movement had three primary characteristics: (i) the belief that

42. *Id.* at 169.

43. *See id.* at 168-70.

44. *Id.* at 170.

45. *See id.*

46. *Id.*

47. *Id.* at 169.

48. *Id.*

49. *Id.* at 168.

50. *See generally* Vincent Harding et al., *We Changed the World*, in *TO MAKE OUR WORLD ANEW: A HISTORY OF AFRICAN AMERICANS* 445, 518-42 (Robin D.G. Kelley & Earl Lewis eds., 2000) (discussing King's philosophy of nonviolence, the influence of Malcolm X and the Nation of Islam, and the growing tensions in the Civil Rights Movement between interracialism and black power).

51. Malcolm X & James Farmer, *Separation or Integration: A Debate*, *DIALOGUE*, May 1962, reprinted in *BLACK PROTEST THOUGHT*, *supra* note 29, at 387, 393 ("And because we don't have any hope or confidence or faith in the American white man's ability to bring about a change in the injustices that exist, instead of asking or seeking to integrate into American society we want to face the facts of the problem the way they are, and separate ourselves.").

52. *See* Robert S. Browne, A Case for Separation, Speech Before the Plenary Session of the National Jewish Community Relations Advisory Council (June 30-July 3, 1968), in *SEPARATISM OR INTEGRATION, WHICH WAY FOR AMERICA? A DIALOGUE: ROBERT S. BROWNE & BAYARD RUSTIN* 7, 13 (A. Philip Randolph Education Fund ed., 1968) [hereinafter *BROWNE & RUSTIN*].

53. *TURE & HAMILTON*, *supra* note 31, at 54.

"assimilation would eventually cure racial bigotry,"<sup>54</sup> (ii) the expectation that race mixing under conditions of social equality would break down racial stereotypes and allow members of each group to appreciate a common, shared humanity,<sup>55</sup> and (iii) the belief that integration would eradicate the advantages whites had accrued through segregation.<sup>56</sup> Of all of these elements, the assimilation component has become singularly identified with integration. But the identification-equals-assimilation assumption critically understates the other vital elements of the integration vision. Radical integration restores the complexity of that vision because it is premised (although not entirely reliant) upon the positive externalities created by intergroup contact. Radical integration also calls for a renewed appreciation of integration's vital structural component, and provides at least some explanation for how black individuals can form a "black identity" in a racially integrated environment.

### B. Defining Radical Integration

Radical integration is conceptually distinct from desegregation. Radical integration encompasses the desire to desegregate—that is to disestablish a previously racially separate system,<sup>57</sup>—and to champion a forward-looking, aspirational vision of equality. That vision of equality contains two elements. The first is an associational element, which represents an overt desire to cause association where separation had been the rule.<sup>58</sup> The second element involves the quality of that association. Radical integration focuses on bringing racial or ethnic groups together for the

54. Edwards, *supra* note 6, at 945 (explaining that *Brown v. Board of Education* was premised on assimilationist integrationism).

55. Martin Luther King, Jr., The Ethical Demands for Integration, Speech Before a Church Conference in Nashville, Tenn. (Dec. 27, 1962), in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR.* 117, 117-25 (James Melvin Washington ed., 1986) [hereinafter *A TESTAMENT OF HOPE*].

56. See Bayard Rustin, *The Failure of Black Separatism* (1970), in *TIME ON TWO CROSSES: THE COLLECTED WRITINGS OF BAYARD RUSTIN* 217, 232-33 (Devon W. Carbado & Donald Weise eds., 2003) [hereinafter *TIME ON TWO CROSSES*]; Randall Kennedy, *On Racial Integration*, 43 *DISSENT* 3 (1996), available at <http://2souls.com/main/Knowledge%20Warehouse/intergration/intergration.htm> (last visited March 21, 2006).

57. "Desegregation" means the active disestablishment of a segregated hierarchy, structure or entity. Thus, desegregation is more specific than "integration" and is oriented towards solving the problem of racial segregation that had been mandated by law. This understanding is consistent with the Oxford English Dictionary definition of "desegregate" which emphasizes the abolition of racial segregation particularly "in schools and other institutions." *OXFORD ENGLISH DICTIONARY* (2nd ed. 1989), <http://dictionary.oed.com>. Given the focus on disestablishment, desegregation might occur simply when the rule or procedure that mandated separation is removed. See also Kennedy, *supra* note 56, at 47 (describing desegregation as the need to eradicate *de jure* segregation). Thus, a desegregated environment is not necessarily an integrated environment. See generally John A. Powell, *An "Integrated" Theory of Integrated Education* (2002) (unpublished manuscript, on file with author).

58. Along these lines, the Oxford English Dictionary defines integration as "the bringing into equal membership of a common society those groups or persons previously discriminated against on racial or cultural grounds." *OXFORD ENGLISH DICTIONARY* (2d ed. 1989), <http://dictionary.oed.com>.

purpose of fostering and facilitating material equality. I call this second element instrumental or material equality.<sup>59</sup>

Radical integration entertains the hope that the association of members of different races within a context of social equality might benefit all by destroying stereotypes, suspicion and mistrust.<sup>60</sup> This vision of integration, which Randall Kennedy termed "racial kinship," "champions the creation of new communal affiliations in which interracial affections are a positive good."<sup>61</sup> This understanding of integration is well known and can be traced to perhaps its most famous proponent: Martin Luther King, Jr.

Dr. King championed integration on the theory that the eradication of artificial barriers to communication and the formation of interrelationships would both facilitate black equality and allow everyone to better appreciate a common, shared humanity. Along these lines, King defended integration from a spiritual perspective:

We do not have to look very far to see the pernicious effects of a desegregated society that is not integrated. It leads to "physical proximity without spiritual affinity." It gives us a society where men are physically desegregated and spiritually segregated, where elbows are together and hearts are apart.<sup>62</sup>

This vision of integration had advantages for both blacks and whites, and was suggestive of the possibilities of perfecting American democracy through the recognition of the dignity and worth of every person.<sup>63</sup>

At the same time, King's advocacy of integration was deeply instrumental. He viewed integration as a platform for achieving full black citizenship.<sup>64</sup> In King's famous "I Have A Dream" speech given during the March on Washington in 1963, he situated his call for black equality within the rhetoric of a uniquely American ideology. His dream was "deeply rooted in the American dream that one day this nation will rise up and live out the true meaning of its creed."<sup>65</sup> He envisioned a post-integration world

59. Another reference suggests that integration is the "[b]ringing of people of different racial or ethnic groups into unrestricted and equal association, as in society or an organization." Dictionary.com, <http://dictionary.com> (last visited Oct. 4, 2005).

60. This is the "contact hypothesis." The canonical source for the contact hypothesis is GORDON W. ALLPORT, *THE NATURE OF PREJUDICE* (1954). According to Pettigrew, Allport argued that intergroup contact increased tolerance and reduced prejudice: "[P]ositive effects of intergroup contact occur only in situations marked by four key conditions: equal group status within the situation; common goals; intergroup cooperation; and the support of authorities, law, or custom." Thomas F. Pettigrew, *Intergroup Contact Theory*, 49 ANN. REV. PSYCHOL. 65, 66 (1998).

61. Kennedy, *supra* note 56, at 47-48.

62. A TESTAMENT OF HOPE, *supra* note 55, at 118.

63. *Id.* at 117-19.

64. *Id.* at 118 (describing integration as the "ultimate goal" because it signaled "the positive acceptance of desegregation and the welcomed participation of Negroes into the total range of human activities").

65. Martin Luther King, Jr., *I Have A Dream*, Address at the March on Washington (Aug. 28, 1963), *reprinted in* A TESTAMENT OF HOPE, *supra* note 55, at 217, 219.



where blacks were full American citizens and would be judged by the "content of their character," rather than by the "color of their skin."<sup>66</sup> King's vision of integration, which placed black equality at the center of the "American creed," is perhaps the leading vision of integration today. But the present understanding of integration often codes as colorblindness and leans too much on abstract calls for brotherhood, unity, and the benefits that accrue to everyone from interracial contact.

Radical integration does not base its primary appeal on the utility of the contact hypothesis, however positive its outcomes.<sup>67</sup> While a radical integration approach would necessarily lead to positive externalities that benefit all society, this is not the crux of my argument. Instead, radical integration represents the desire that a previously separate environment actually facilitate instrumental equality *for the purposes of facilitating black empowerment*. Randall Kennedy's multifaceted definition of integration is useful here. Kennedy suggests that integration comprises several distinct concepts beyond racial kinship. These concepts include "diversity integration,"<sup>68</sup> which is "concerned with the strategic placement of blacks in influential, power-shaping forums,"<sup>69</sup> and "pluralist integration,"<sup>70</sup> a position asserted by those who might not otherwise favor integration but who "want blacks to be full beneficiaries of America's bounty and full participants in its polity."<sup>71</sup> These conceptualizations of integration focus on segregation as an impediment to racial equality. "Diversity integration" and "pluralist integration" are really other ways of asserting that segregation continues to impede the ability of blacks to become full citizens.

The above understanding of integration emerges from the writings and philosophies of Civil Rights Era activists. In 1962, James Farmer described segregation as a "disease" which had "psychological, economic, social, and political" consequences.<sup>72</sup> Segregation created a system where "Negroes occupy the bottom of the economic ladder,"<sup>73</sup> where "few Negroes are registered to vote,"<sup>74</sup> and where the psychological "damage that is done to Negroes is obvious [and] the damage that is done to whites in America is equally obvious."<sup>75</sup> Farmer argued that segregation and integration were mirror images of each other boldly stating: "[w]e are for integration, which

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66. *Id.*

67. *See supra* note 60.

68. Kennedy, *supra* note 56, at 49.

69. *Id.*

70. *Id.*

71. *Id.* Kennedy would also include a final definition of integration: "amalgamation" which is the "literal blending of races through voluntary sexual intimacy, resulting in a new, distinctly American multiracial hybrid." *Id.*

72. Malcolm X & James Farmer, *supra* note 51, at 400.

73. *Id.* at 399.

74. *Id.*

75. *Id.*

is the repudiation of the evil of segregation.”<sup>76</sup> Thus, integration meant black access to all levels of American society—to various professions, business, and the academic world.<sup>77</sup> Farmer’s argument for integration was a call for a truly open society.<sup>78</sup>

Toward the end of the Civil Rights Era, Bayard Rustin participated in a debate on integration in which he sounded many of Farmer’s themes.<sup>79</sup> Rustin’s view was that racial advancement would depend upon the “degree to which [the black community] can participate in the democratic process . . . rather than separate from it.”<sup>80</sup> Indeed, Rustin advocated a robust vision of integration, one that transcended the localism inherent in calls for black separation, and focused instead on the necessity of integrating blacks into the central institutions of American society.<sup>81</sup>

Radical integration embraces this earlier groundwork. The word radical has two meanings: going to the root or source of an issue, and departing markedly from the usual or customary.<sup>82</sup> My vision of integration is radical in the first sense in that it cuts to the very heart of the promise of integration as the key tool for achieving black liberation. In this sense, focusing on integration is radical because it recognizes that racial segregation is the root or source of racial inequality and that racial integration is the only adequate antidote. Racial segregation structures, maintains, and perpetuates inequality across virtually every indicia of social, political, educational and economic well being.<sup>83</sup>

More specifically, radical integration recognizes that racial segregation is a primary impediment to achieving *structural* equality. From a radical integration perspective, equality is defined not just as equity with respect to facilities and resources under conditions of segregation, but as access to the structures of opportunity associated with success and upward mobility in early twenty-first century America.<sup>84</sup> Structural equality and segregation are incompatible for a host of reasons, not the least of which is that racial segregation supports the unequal competitive dynamics that often characterize black-white intergroup relations.<sup>85</sup> Under conditions of intergroup rivalry, it is reasonable to expect that socially and economically

76. *Id.* at 403.

77. *See id.* at 404.

78. *See id.*

79. *See generally* BROWNE & RUSTIN, *supra* note 52.

80. Browne, *supra* note 52, at 18.

81. *See* Rustin, *supra* note 56, at 232-33.

82. For the definition of “radical” cited here, see Dictionary.com, <http://dictionary.com> (last visited Oct. 4, 2005).

83. *See* discussion *infra* Part II.

84. John A. Powell, *Living and Learning: Linking Housing and Education*, 80 MINN. L. REV. 749, 758 (1996) (defining the “opportunity structure” as access to “education, health care, and jobs, all of which are necessary to succeed in our society”).

85. *See generally* Michelle Adams, *Intergroup Rivalry, Anti-Competitive Conduct and Affirmative Action*, 82 B.U. L. REV. 1089 (2002).



dominant groups will engage in anti-competitive behaviors as a means of securing and perpetuating that dominance.<sup>86</sup> Racial segregation augments that process.<sup>87</sup>

My vision of integration is also radical in the second sense in that radical integration is a departure from what has become the customary vision of integration. Customarily, integration is seen as synonymous with assimilation, and successful integration necessarily entails the obliteration of a unique black identity.<sup>88</sup> Radical integration, in contrast, rejects the notion that blacks cannot form a stable and strong black identity in an integrated environment. A "black identity" can certainly be formed in an integrated environment, but in acknowledging this possibility we must move away from the notion that the term has any fixed or definite meaning. Radical integration requires that we be comfortable with shifting or unstable identities (as well as allegiances), even as we acknowledge the strength and vitality of the many black communities that have nurtured black individuals for generations. We need to trust that black individuals, when faced with a white-dominated environment, are capable of forming "black identities" that bear at least some tie to black cultural traditions of the past. In the remainder of this article, I explore these two radical views—that segregation is at the root of black inequality, and that black individuals can form positive black identities within an integrated environment.

## II

### RADICAL INTEGRATION: REFOCUSING ON SEGREGATION AS THE ROOT OF RACIAL INEQUALITY

The radical integration approach highlights the deep interdependence between segregation and the maintenance of white supremacy. Within this paradigm, racial segregation is understood as a multifaceted and self-sustaining generator of inequality. As John W. Cell explained: "Segregation is at the same time an interlocking system of economic institutions, social practices and customs, political power, law, and ideology, all of which function both as means and as ends in one group's efforts to keep another (or others) in their place within a society that is actually becoming unified."<sup>89</sup>

Indeed, early segregationist reactions to *Brown v. Board of Education*<sup>90</sup> often explicitly recognized that integration posed a serious

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86. *Id.* at 1109.

87. *See id.* at 1121 (arguing that the system of *de jure* segregation functioned as a "barrier to entry" for minority competitors and that segregation still has similar ramifications today).

88. Eric Foner & Randall Kennedy, *Reclaiming Integration*, THE NATION, Dec. 14, 1998, at 11 ("Many African-Americans criticize [integration] for implying the dismantling of a distinctive black culture and identity.").

89. JOHN W. CELL, THE HIGHEST STAGE OF WHITE SUPREMACY 14 (1982).

90. 347 U.S. 483 (1954).

challenge to the economic, political, status, and social benefits provided to whites under a system of state-mandated segregation. In *Brown's* wake, numerous books appeared, in often hysterical tones, portraying integrated societies as dystopias.<sup>91</sup> At that time, of course, the threat posed by the introduction of African Americans into the white community was typically expressed in base terms; "racial amalgamation" and white "degradation" were overriding themes.<sup>92</sup> But whether expressed as a fear of rampant black sexuality,<sup>93</sup> or as apprehension of black cultural deficiency,<sup>94</sup> the core of the anti-integrationist impulse was white protectionism.

Despite the visceral nature of this segregation discourse, it was often frank and calculating about the need to protect the white group's social and economic position.<sup>95</sup> Along these lines, one author described the root causes of racial animosity in the following manner: "[a]nother factor which increases the dislike is economic competition. Race dislike and hostility are diminished by separation and the fixing of definite geographical boundaries, also by fixing a status of superior and inferior where two races are nearly equal in numbers."<sup>96</sup> Hence, for all their misleading hysteria, even these dissertations on the harms of integration revealed the ugly calculation of segregation's consequences. Although the threat was always articulated in inflammatory terms—race, blood, and sexuality—the real danger posed by an end to segregation was that whites had much to lose. By definition, segregation funneled countless social benefits to white beneficiaries; thus, integration was dangerous because it threatened to reduce the value of whiteness.<sup>97</sup>

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91. See, e.g., TOM P. BRADY, *BLACK MONDAY* (1955); AUSTIN EARL E. BURGESS, *WHAT PRICE INTEGRATION?* (1956); LOUIS E. DAILEY, *THE SIN OR EVILS OF INTEGRATION* (1962); GEORGE FRITCHIE, *HELL FIRE AND INTEGRATION* (1965); JOHN H. MANAS, *THE RACE PROBLEM: SEGREGATION OR INTEGRATION?* (1959).

92. BURGESS, *supra* note 91, at 54 (discussing the attributes of "mulattos"); DAILEY, *supra* note 91, at 42 (discussing how white people "have a passionate desire to keep the bloodstream of their race pure and free from contamination by other races"); MANAS, *supra* note 91, at 47 ("In the case of mixing the races a mongrelized subrace is going to appear on earth.").

93. BURGESS, *supra* note 91, at 5 ("Negroes are notoriously lax in their sex morals. . ."); DAILEY, *supra* note 91, at 38 ("[W]hite people of the South know that a large number of Negro teenage boys are nearly sex maniacs.").

94. See BURGESS, *supra* note 91, at 38.

95. To be clear, the characterizations of African Americans in those books border on monstrous; to these authors, African Americans were essentially walking pathogens. African Americans were characterized as incapable of controlling their sexual appetites, lazy, stupid, criminal, profane, diseased, immoral, without ambition, irrational, incapable of meaningful expression, and otherwise unworthy of association. See BRADY, *supra* note 91, at 12 ("[T]he social, political, economic and religious preferences of the Negro remain close to the caterpillar and the cockroach."); see sources cited *supra* note 91.

96. See MANAS, *supra* note 91, at 32; see also BURGESS, *supra* note 91, at 86 (arguing in favor of state-mandated segregation, but paradoxically stating, "I am for the Negro having everything that he can win for himself in open competition by legal and just means.").

97. Manas explained equality's deficiencies in the following manner:

Of course, the critics were wrong about the types of harm that whites would experience in an integrated system, but their initial assertion was accurate. The white community would be forever changed with the abolition of segregation. Integration would mean that whites could no longer count on artificial support from law and custom to augment individual self-esteem, personal efficacy, and untold advantages in education, commerce, government, and virtually every area of social, economic, and political life. Notwithstanding its emphasis on blood and sexuality, the anti-integrationist impulse was more materialistic, structural, and institutional than initially supposed.

The utility of a renewed enthusiasm for integration can be appreciated only when one fully confronts this truth and the continuing impact of racial segregation on black people. As a conceptual matter, I will define segregation, in a post-*de jure* era, as all easily observable racial separation whether imposed by choice, custom, or law. If, for instance, blacks and whites attend separate and racially definable schools (or classes within racially mixed schools), live in separate and racially-defined neighborhoods, work and play in separate settings, and vote for separate candidates at the polls, then the two groups are functionally segregated. While it is true that much of today's separation is "voluntarily" chosen (often by blacks and whites alike), it is impossible to disentangle this new, voluntary regime from the prior, far more mandatory one. Segregation of either stripe promotes and perpetuates inequality.

#### A. *The Truth About Segregation*

The evils of racial segregation are legion and have been amply explored by a host of able commentators.<sup>98</sup> I will not attempt to retrace all that literature here. For our purposes, the most important concept is the impact of segregation along a spatial dimension.<sup>99</sup> As a general matter,

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The philosophy of equality is not only unnatural, since nature knows no equality, but it is deadening. It is a fatal philosophy to those who aspire. Paradoxically, under its spell, many of the individuals of the races which are considered inferior might give up trying to overcome their inferiority. . . . A civilization in which all are equal would tend to penalize the individual and to hold him down to a level of mediocrity.

MANAS, *supra* note 91, at 59.

98. See, e.g., ROBERT D. BULLARD ET AL., *RESIDENTIAL APARTHEID: THE AMERICAN LEGACY* (1994); CASHIN, *supra* note 8; JAMES KUSHNER, *APARTHEID IN AMERICA: AN HISTORICAL AND LEGAL ANALYSIS OF CONTEMPORARY RACIAL SEGREGATION IN THE UNITED STATES* (1980); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993); GARY ORFIELD ET AL., *DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF BROWN V. BOARD OF EDUCATION* (1996); ROBERT C. WEAVER, *THE NEGRO GHETTO* (1948).

99. SUSAN WELCH ET AL., *RACE AND PLACE: RACE RELATIONS IN AN AMERICAN CITY I* (2001) ("Residential segregation . . . has been and continues to be the 'structural linchpin' of American race relations.").

blacks experience high levels of residential segregation.<sup>100</sup> Residential segregation is perhaps the single most important factor contributing to racial inequality in the United States today.<sup>101</sup> It is particularly egregious because it concentrates and perpetuates poverty and associated ills.<sup>102</sup> At the same time, residential segregation of non-poverty impacted neighborhoods adversely affects African Americans.<sup>103</sup> Black and white Americans typically inhabit spatially separate worlds that differ in material resources, security, status, culture, and opportunities.<sup>104</sup> Residential segregation is a form of super-segregation, creating and perpetuating racial, social, and economic disparities so significant that it creates a spiraling "feedback loop" of inter-generational inequality.<sup>105</sup>

The consequences of residential segregation can be denominated into two broad categories: a denial of access to "quality schooling, jobs, and other [material] resources;"<sup>106</sup> and other less tangible forms of discrimination that are equally pernicious including diminution in social status, lack of access to valuable social relationships, and isolation from large portions of American society.<sup>107</sup> Scholars have studied extensively the manner in which segregation protects and enhances white material advantage. Less well-examined is how racial segregation functions in ephemeral and less-quantifiable areas like status enhancement, social development, and information and opportunity access. Segregation also twists the attitudes of both races, inculcating feelings of inferiority and hopelessness in blacks, while in whites it breeds a sense of superiority and lack of social responsibility for those "who live over there," i.e., for blacks. Much current social policy

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100. Douglas S. Massey, *Residential Segregation and Neighborhood Conditions in U.S. Metropolitan Areas*, in *AMERICA BECOMING: RACIAL TRENDS AND THEIR CONSEQUENCES* 391, 403 (Neil J. Smelser et al. eds., 2001) (assessing recent trends in black segregation and finding that "[e]ither in absolute terms or in comparison to other groups, Blacks remain a very residentially segregated and spatially isolated people"). For poor blacks, the situation is even more dire; poor blacks are "hypersegregated," meaning they are the most highly residentially segregated racial group in the United States. CASHIN, *supra* note 8, at 96 (The term "hypersegregation" refers to a "deep wall of isolation and concentrated poverty. Poor black people are highly segregated from *all* other groups, and their levels of segregation remained essentially the same in the last third of the twentieth century.").

101. MASSEY & DENTON, *supra* note 98, at 2 ("[R]esidential segregation . . . systematically undermines the social and economic well-being of blacks in the United States.").

102. *See id.* at 12-14.

103. *See* CASHIN, *supra* note 8, at 127-66.

104. *Id.* at xiv-xix.

105. Adams, *supra* note 85, at 1111 (conceptualizing the effects of this "feedback loop"); *see also* Michelle Adams, *Isn't It Ironic? The Central Paradox at the Heart of "Percentage Plans,"* 62 OHIO ST. L.J. 1729, 1734-35 (2001) (arguing the correlating effects of negative reinforcement in perpetuating inequality).

106. Xavier de Souza Briggs, *Social Capital and Segregation: Race, Connections, and Inequality in America I* (Feb. 2002) (unpublished manuscript, John F. Kennedy School of Government, Harvard University, Faculty Research Working Paper Series, on file with author), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=320243](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=320243).

107. *Id.*; *see generally* Amy Stuart Wells, *The "Consequences" of School Desegregation: The Mismatch Between the Research and the Rationale*, 28 HASTINGS CONST. L.Q. 771 (2001).



aimed at eradicating the effects of de jure segregation (even if done implicitly), seeks to promote equity under conditions of continued de facto segregation.<sup>108</sup> But as long as segregation persists, its intangible benefits will continue to flow to whites, thereby preventing equity.

Let us examine a familiar example: U.S. public schools. Today, black and white children largely attend racially separate schools.<sup>109</sup> With respect to majority black schools, we find that the students who attend them are poorer than many, if not most, of the students attending majority white schools.<sup>110</sup> This means that minority segregated schools are very likely to

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108. One recent, prominent example is the No Child Left Behind Act of 2001. No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended in scattered sections of 20 U.S.C.) [hereinafter NCLBA]. The NCLBA is perhaps the most significant federal statute ever enacted in the field of public education. See James E. Ryan, *The Perverse Incentives of the No Child Left Behind Act*, 79 N.Y.U. L. Rev. 932, 932 (2004). A signal goal of the NCLBA is to close the "achievement gaps between minority and nonminority students." 20 U.S.C. § 6301(3) (West, 2002). But while the NCLBA was designed to address racial disparities in educational achievement, the Act does little to further desegregation. For instance, a key component of the NCLBA is a transfer provision, which gives students attending low-performing schools the option to transfer to a higher performing school. 20 U.S.C. § 6316(b)(1)(E)(i) (2002). The transfer option, however, is mandatory only within the school district that the student is already attending. *Id.* Interdistrict transfers—the types of transfers that might facilitate the movement of minority children from urban to suburban schools—are allowed but not required. See JIMMY KIM & GAIL L. SUNDERMAN, THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY, DOES NCLB PROVIDE GOOD CHOICES FOR STUDENTS IN LOW-PERFORMING SCHOOLS? 10 (2004), [http://www.civilrightsproject.harvard.edu/research/esea/good\\_choices.pdf](http://www.civilrightsproject.harvard.edu/research/esea/good_choices.pdf). The Kim-Sunderman report also found that the NCLBA transfer provision has not been widely used, has not provided "economically disadvantaged students with opportunities to move to schools with high achievement levels and low poverty rates," and that the federal regulations implementing the NCLBA have put "federal desegregation efforts at risk." *Id.* at 6-7. Finally, James E. Ryan argued that the NCLBA actually encourages suburban schools to segregate. See Ryan, *supra* note 108, at 932. Under the Act, schools must show "adequate yearly progress" (AYP) measured by their students' proficiency scores. *Id.* at 940. Schools that do not make adequate progress are subject to a variety of increasingly punitive sanctions. *Id.* at 942-43. Ryan argues that because poor and minority students underperform on proficiency tests, the "NCLBA promotes segregation . . . by providing administrators of white, middle class schools a reason to exclude African American, Hispanic, and poor students." *Id.* at 961. Indeed, this effect can be particularly pernicious with respect to voluntary desegregation programs. As Ryan describes it, "[i]magine that one of those suburban schools finds itself failing to achieve AYP in part or entirely because the transfer students do not meet their benchmark. To the extent suburban school participation was voluntary, there undoubtedly will be pressure within the district to bow out of the program." *Id.* at 963.

109. See generally ERICA FRANKERBERG ET AL., THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY, A MULTIRACIAL SOCIETY WITH SEGREGATED SCHOOLS: ARE WE LOSING THE DREAM? (2003), <http://www.civilrightsproject.harvard.edu/research/reseg03/AreWeLosingtheDream.pdf>. Indeed, this trend is accelerating. See CHUNGMEI LEE, THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY, IS RESEGREGATION REAL? (2004), <http://www.civilrightsproject.harvard.edu/research/reseg03/mumfordresponse.pdf> (finding that the "isolation of Latino and black students from white students in public schools has substantially increased since the 1980s").

110. According to a recent study, "88 percent of the intensely segregated minority schools (or schools with less than ten percent white [students]) had concentrated poverty, with more than half of all students getting free lunches." GARY ORFIELD & CHUNGMEI LEE, THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY, BROWN AT 50: KING'S DREAM OR PLESSY'S NIGHTMARE? 21 (2004), <http://www.civilrightsproject.harvard.edu/research/reseg04/brown50.pdf>.

be schools experiencing the effects of concentrated poverty.<sup>111</sup> Why does this matter? Gary Orfield and Chungmei Lee explained the relationship between poverty concentration, educational opportunities, and achievement levels in U.S. schools:

Children in these schools tend to be less healthy, to have weaker preschool experiences, to have only one parent, to move frequently and have unstable educational experiences, to attend classes taught by less experienced or unqualified teachers, to have friends and classmates with lower levels of achievement, to be in schools with fewer demanding pre-collegiate courses and more remedial courses, and to have higher teacher turnover.<sup>112</sup>

Thus, with few exceptions, “separate schools are still unequal schools.”<sup>113</sup> But the nature of this inequality is multifaceted. Schools do not just educate the young; they also provide other important benefits including enhanced social status and economic mobility. These less tangible forms of inequality are less well-appreciated.

For instance, Amy Stuart Wells suggested that much of the social science research that assesses the benefits of desegregation is myopic because it focuses solely on educational attainment.<sup>114</sup> In contrast, Wells argues that desegregation programs must be evaluated not just with respect to whether black children in desegregated schools obtain higher test scores, but also whether those children benefit “via association—that is, [by] attending higher status schools that serve mostly white and wealthy students.”<sup>115</sup> Wells’s argument is not that black students require close proximity to whites in order to learn.<sup>116</sup> She focuses instead on the myriad opportunities available in white suburban schools, and the often starkly different missions of schools serving predominantly black versus predominantly white populations.<sup>117</sup> Her view is that desegregation not only enhances black students’ educational attainment,<sup>118</sup> but also provides a wealth of other, less tangible benefits to students: access to more information about scholarships, internships, and jobs; exposure to more challenging curricula; access to different (and more powerful) social networks, institutions, and opportunities; and the ability to “get along” and to compete in many different types of social and cultural environments. This has powerful downstream

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111. *Id.*

112. *Id.* at 21-22.

113. FRANKERBERG ET AL., *supra* note 109, at 11.

114. Wells, *supra* note 107, at 772-73.

115. *Id.* at 785.

116. *Id.* at 790 (“African American students did not need to sit next to white students to learn, but if they did, they were more likely to be in social institutions that conferred status and prestige.”).

117. *See id.* at 792.

118. *Id.* at 786.



impacts, including higher occupational aspirations and attainment of graduate and professional degrees.<sup>119</sup>

Looking at schools, or access to job opportunities,<sup>120</sup> measures just one indicia of the vast inequality generated by spatial segregation. There are many other ways in which residential segregation structures inequality. One notable example is the connection between spatial segregation and environmental risk.<sup>121</sup> Indeed, race is a more salient characteristic for predicting environmental risk than class.<sup>122</sup> Rachel Godsil explained that discriminatory governmental practices helped to create our racially-stratified urban and suburban areas and have allowed industry to "externalize the costs of pollution onto the Black and Latino residents of inner cities."<sup>123</sup> Godsil's assessment of this situation is blunt: segregation "leads to an increased burden of pollution."<sup>124</sup>

As I have explained elsewhere, residential segregation facilitates the dominant group's access to "neighborhoods with low crime rates, good schools, and good jobs."<sup>125</sup> Access to this "trinity of inputs" helps members of this already dominant group to "secure large financial assets, obtain particular employment opportunities, maintain positions of influence . . . [and] wield political power."<sup>126</sup> Again, however, beyond these tangible indicators of advantage, other less tangible indicia of inequality exist under a segregated system. Along these lines, Xavier de Souza Briggs argued that residential segregation undermines the development of interracial friendships, which has a deleterious effect not only on blacks' economic success, but also on "inter-group understanding, and democracy in America."<sup>127</sup>

The isolation of many blacks in inner-city neighborhoods creates another set of problems: alienation and isolation from American society. Social isolation can lead to the development of speech patterns that are often inconsistent with economic upward mobility<sup>128</sup> and the formation of behavior patterns that are at variance with mainstream American norms.<sup>129</sup>

119. See *id.* at 794-95.

120. See Joleen Kirschenman & Kathryn M. Neckerman, "We'd Love to Hire Them, But . . .": *The Meaning of Race for Employers*, in *THE URBAN UNDERCLASS* 203, 203-32 (Christopher Jencks and Paul E. Peterson eds., 1991) (finding that employers' perception of race, class, and residence limited inner-city residents' employment opportunities).

121. See Rachel Godsil, *Environmental Justice and the Integration Ideal*, 49 N.Y.L. SCH. L. REV. 1109, 1115-21 (2005) (describing a variety of pollution studies assessing the exposure of communities of color to hazardous waste landfills, toxic wastes, and lead poisoning, which found that "people of color and the poor are disproportionately burdened by varying forms of pollution.").

122. See *id.* at 1117-18.

123. *Id.* at 1125.

124. *Id.* at 1115.

125. Adams, *supra* note 85, at 1113, 1150-51.

126. *Id.* at 1113.

127. de Souza Briggs, *supra* note 106, at 1.

128. MASSEY & DENTON, *supra* note 98, at 13.

129. *Id.* at 8.

As Douglas Massey and Nancy Denton have explained: "By concentrating poverty, segregation simultaneously concentrates male joblessness, teenage motherhood, single parenthood, alcoholism, and drug abuse, thus creating an entirely black social world in which these oppositional states are normative."<sup>130</sup> Thus, residential segregation has had a devastatingly adverse impact on blacks living within these communities by concentrating disadvantage across a wide variety of indicia.<sup>131</sup> Indeed, recent research found that as the "structural factor controlling poverty concentration, segregation is directly responsible for the perpetuation of socioeconomic disadvantage among Blacks."<sup>132</sup>

No social system is static. Thus, these "oppositional states" are strengthened and reaffirmed as they are passed down from generation to generation under segregated conditions.<sup>133</sup> In turn, the stronger (and better publicized) these "oppositional states" become, the easier it is for whites to dismiss blacks as not worth associating with anyway. This then reaffirms the "validity" of an already discriminatory system. At the same time, isolation from the lives of many black Americans leads many whites to believe that racial separation is a "natural" state of affairs, brought about by individual "choices" as opposed to any past and present discriminatory activity. This provides a kind of immunization from culpability. Thus, the large spatial disconnect between most black and white communities means that the condition of many black inner-city neighborhoods is rationalized, and the people living within these neighborhoods (often with few other options) are blamed for these problems.<sup>134</sup> Separate, as it turns out, is not just inherently unequal, but separateness tends to both generate more inequality and to direct blame where it least belongs.<sup>135</sup>

130. *Id.* at 170.

131. *See* Massey, *supra* note 100, at 422-24.

132. *Id.* at 424.

133. Cornel West argued that culture, rather than "an ephemeral set of behavioral attitudes and values," is "rooted in institutions such as families, schools, churches, synagogues, [and] mosques . . ." CORNEL WEST, *RACE MATTERS* 12 (1993). To the extent that culture has a structural aspect as West suggests, that culture is also shaped and formed by racial segregation.

134. Gary Orfield, *Race the Liberal Agenda: The Loss of the Integrationist Dream, 1965-1974*, in *THE POLITICS OF SOCIAL POLICY IN THE UNITED STATES* 313, 315 (Margaret Weir et al. eds., 1988) (describing the logic of the color line). Orfield suggests that

the political and social initiative is decisively with those who assert that the subordinate group's inferior position is caused by some kind of inherent personal or group inferiority. The tendency is to conclude (often in euphemisms) that the dominant group deserves to be dominant, that nothing can be done about the unhappy reality, and that attacks on the structure of separation are disruptive and misguided.

*Id.*

135. To be clear, I am not arguing that antisocial and/or criminal behaviors should be excused or go unpunished. Like Cornel West, I believe that "individual black people are responsible for their actions-black murderers and rapists should go to jail." WEST, *supra* note 133, at 16. But at the same time, we must understand the racially segregated context in which these actions take place: "[h]ow people act and live are shaped—though in no way dictated or determined-by the larger circumstances in which they find themselves." *Id.* at 12.

Of course, critics may argue that I am overstating the harm of residential segregation, particularly given the rise of black middle-class suburban enclaves.<sup>136</sup> After all, these communities are thriving, notwithstanding their racially segregated character. However, the unfortunate reality is that even black self-segregation—undertaken in order to provide a bulwark against white domination and to enhance comfort and community pride—has failed to produce the kind of material benefits commonly associated with white suburbanization.<sup>137</sup>

In examining several middle-class black residential enclaves including Prince George's County, Maryland, Sheryll Cashin found that "[b]lack communities, even affluent ones, bear burdens and costs that predominately whites ones do not."<sup>138</sup> More specifically, Cashin described the cyclical nature of black suburbanization:

Blacks form enclaves by preference and because they are steered to the least controversial areas—those deemed undesirable by whites—by a discriminatory real estate industry. These enclaves are usually in the opposite direction from the centers of highest economic growth. . . . This pattern is repeated virtually everywhere black people are suburbanizing in large numbers. When migrating blacks reach a critical mass, whites flee, and demand in the local housing market falls, causing poorer blacks to move in behind middle-class blacks. Within a period as short as a decade, the black middle-class finds itself once again in close proximity to social distress and often moves again, even farther away from the centers of economic growth. Meanwhile, commercial and retail investors shun these emerging black enclaves as the social distress they attract increases crime, often lowers property values, raises taxes, and reduces school quality as the student population rapidly becomes impoverished.<sup>139</sup>

Thus, while black enclaves may have many "soul-regenerating benefits," there are steep costs associated with black separatism. Separatism, even among affluent blacks, does not produce the same kind of American suburban dream that whites enjoy.<sup>140</sup> Consequently, Cashin

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136. CASHIN, *supra* note 8, at 134 ("[b]etween 1970 and 1995, 7 million black people moved to the suburbs, a number considerably greater than the 4.5 million blacks who made the great migration from South to North between 1940 and 1970. While most of these black suburban movers located in predominately white settings, a new contemporary phenomenon of predominately black, middle-class enclaves also developed.").

137. *Id.* at 132 ("[O]utspoken residential hubris and confident separatism is not uncommon among African Americans who are attracted to the black middle-class suburban enclaves that have begun to emerge outside of U.S. cities with sizable black populations. They believe in the viability of black communities and black institutions. They believe it is possible to have the good life and the suburban dream in an overwhelmingly black setting.").

138. *Id.* at 135.

139. *Id.* at 135-36.

140. *Id.* at 137.

concludes that "integration or living in an integrated community is practically the only route black people have to escape concentrated black poverty."<sup>141</sup>

### B. *Radical Integration in Law and Public Policy*

Radical integration places the problem of segregation front and center in any discussion of racial inequality. It moves beyond the standard assumption that integration is merely a prescription for assimilation and emphasizes "how segregation strips communities of resources and reproduces inequality."<sup>142</sup> Integration presents a possibility for a "radical transformation in the relations of power."<sup>143</sup>

Radical integration is more than a theoretical concept, however. It resonates in current questions of law and public policy. For example, the seminal case *Grutter v. Bollinger*<sup>144</sup> yields new insights when viewed through a radical integrationist lens. Similarly, examining key public policy initiatives, such as housing mobility programs, through the radical integrationist framework demonstrates this approach's potential for combating racial inequality.

In *Grutter*, plaintiffs challenged the University of Michigan Law School's admissions policy, which used race as a factor in making admissions decisions.<sup>145</sup> The Court ruled that the Law School's admissions scheme comported with the Equal Protection Clause of the Fourteenth Amendment.<sup>146</sup> Applying strict scrutiny, the Court held that the Law School's goal of achieving "student body diversity" was sufficiently compelling and that the selection process, which emphasized individualized determinations, was narrowly tailored to achieve that goal.<sup>147</sup>

The reasoning in *Grutter* was not uniformly applauded in the progressive community. Indeed, one of the more devastating criticisms leveled against *Grutter* (and against *Bakke* before it) concerns the adoption of "diversity" as the principal justification for affirmative action, as opposed to a candid recognition of present racial inequality and the continuing effects of past discrimination.<sup>148</sup> For instance, in an early assessment of

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141. *Id.* at 135.

142. Robin D.G. Kelley, *Integration: What's Left?*, THE NATION, Dec. 14, 1998, at 17.

143. *Id.*

144. 539 U.S. 306 (2003).

145. *Id.* at 317.

146. *Id.* at 328.

147. *See id.* at 334-35.

148. *See, e.g.,* Bryan K. Fair, *Taking Educational Caste Seriously: Why Grutter Will Help Very Little*, 78 TUL. L. REV. 1843, 1847 (2004) ("Regrettably, Justice O'Connor's opinion for the Court does not acknowledge the historical advantages enjoyed by ruling whites."); Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928, 931 (2001) ("[A]s diversity has emerged as the dominant defense of affirmative action in the university setting, it has pushed other, more radical substantive defenses to the background. These more radical



*Grutter*, Derrick Bell argued that the "concept of diversity, far from a viable means of ensuring affirmative action in the admissions policies of colleges and graduate schools, is a serious distraction in the ongoing efforts to achieve racial justice. . . ."<sup>149</sup> In Bell's view, *Grutter* was a narrow victory for African Americans.<sup>150</sup>

A radical integrationist perspective might assess *Grutter* with more optimism. *Grutter* relied on the normative theory of the enduring value of racial integration, rather than the need (at least explicitly) to inject minority group members into status-granting institutions because of past or present racial discrimination.<sup>151</sup> Notwithstanding this reality, however, the underlying vision of integration advanced in *Grutter* is laudable because it recognizes that a modern, complex society is deeply undermined by persistent racial segregation.<sup>152</sup> Consequently, *Grutter* stands for the proposition that minority group members must have access to prized educational opportunities, even at the expense of white applicants. In this view, the admissions structure endorsed in *Grutter* enhances the ability of individual black students not just to gain admittance to selective colleges and graduate schools, but also to reach their fullest potential through the self-actualization that accompanies enhanced income and status attainment.<sup>153</sup> As Sheryll Cashin

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arguments focus on the need to remedy past discrimination, address present discriminatory practices, and reexamine traditional notions of merit and the role of universities in the reproduction of elites.").

149. Derrick Bell, *Diversity's Distractions*, 103 COLUM. L. REV. 1622, 1622 (2003).

150. See *id.* at 1627.

151. See Michelle Adams, *Shifting Sands: The Jurisprudence of Integration Past, Present, and Future*, 47 HOW. L.J. 795, 827 (2004) ("[I]ntegration [in *Grutter*] was affirmed because of its importance in enhancing the lives of Americans more generally, and not because it was seen as enhancing the lives of minority group members specifically.").

152. Kenneth Karst has described the *Grutter* approach as an affirmation of forward-looking affirmative action. Kenneth L. Karst, *The Revival of Forward-Looking Affirmative Action*, 104 COLUM. L. REV. 60 (2004). On this view, the "inclusion of substantial numbers of minority students in the universities is a matter of compelling importance . . . because the universities are gateways to leadership in American institutions." *Id.* at 60.

153. For instance, William G. Bowen and Derek Bok have demonstrated that minority students admitted to selective colleges and universities through affirmative action programs have succeeded across a broad spectrum of criteria. See WILLIAM G. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS* (2000). These beneficiaries of affirmative action graduated from their undergraduate schools in large numbers, earned advanced degrees at selective graduate and professional schools, expressed satisfaction with their educational experiences, earned more income than if they had attended lower status institutions, and were highly likely to assume leadership positions in civil endeavors. *Id.* at xxxi, 59, 103, 128, 168. There is no question that selective educational institutions can be attacked for perpetuating elitism because they use admissions systems that can lead "to the exclusion of poor and working-class whites, especially those from rural areas." Lani Guinier, *Admissions Rituals as Political Acts: Guardians at the Gates Of Our Democratic Ideals*, 117 HARV. L. REV. 113, 121 (2003). But as long as these selective institutions continue to exist, it is vitally important that minority group members are represented within them. *Grutter* allows such representation, at least for the present time. See also Elizabeth S. Anderson, *Integration, Affirmative Action, and Strict Scrutiny*, 77 N.Y.U. L. REV. 1195, 1195 (2002) (arguing that the central purpose of affirmative action is to foster integration because it "dismantle[s] the current barriers to opportunity suffered by disadvantaged racial groups").

effectively argued, "racial and economic integration, particularly of the social institutions that offer pathways to upward mobility, is the best route to closing the egregious gaps of inequality that weaken our nation."<sup>154</sup>

*Grutter's* effects on upward mobility, while otherwise commendable, also underscore one of the most durable arguments lodged against integration—that it benefits only upper-class and well-to-do blacks.<sup>155</sup> Charles Ogletree's urgent call for reparations and the distribution of corresponding resources only to members of the black community who have not benefited from integration is consistent with this critique.<sup>156</sup> Integration has been rejected by many as a viable social policy precisely because segregation continues to be an enduring feature of American life, particularly among lower- and moderate-income blacks.<sup>157</sup> However, the assertion that integration has only (and can only) benefit economically well-off blacks is unfounded.

By focusing on the need to eradicate segregation, radical integration recognizes the enormous economic and social benefits afforded blacks through integration, including lower-income blacks. One important area of success has been in the area of housing mobility remedies. Recall that integration, as I have defined it, has two elements: associational and instrumental.<sup>158</sup> The associational component requires desegregation.<sup>159</sup> The instrumental element accounts for the tangible, material differences between blacks and whites that are corroded through interracial contact.

Housing mobility programs have demonstrated significant success in facilitating racial and socioeconomic integration for low-income individuals. Two programs illustrate this success: the Gautreaux Program, which integrated Chicago public housing residents into suburban housing,<sup>160</sup> and a HUD sponsored demonstration program, "Moving to Opportunity for Fair Housing."<sup>161</sup> These programs demonstrate a robust demand for integration programs in black communities. When offered the opportunity, "[l]ow-income families will apply for the opportunity to move to a better

154. CASHIN, *supra* note 8, at 81.

155. See, e.g., Eugene F. Rivers, *Beyond the Nationalism of Fools: Toward an Agenda for Black Intellectuals*, THE BOSTON REVIEW, Summer 1995, <http://bostonreview.net/BR20.3/rivers.html> ("To the Black middle class, this [integrationist] dream has had a measure of reality. For the Black poor in northern cities, integration was always hopelessly irrelevant.").

156. See Ogletree, *supra* note 19, at 578.

157. See discussion *supra* Part II.A.

158. See discussion *supra* Part I.B.

159. See discussion *supra* Part I.B.

160. See LEONARD S. RUBINOWITZ & JAMES E. ROSENBAUM, CROSSING THE CLASS AND COLOR LINES: FROM PUBLIC HOUSING TO WHITE SUBURBIA 39-40 (2000); Margery Austin Turner & Dolores Acevedo-Garcia, *Why Housing Mobility? The Research Evidence Today*, POVERTY & RACE RES. ACTION COUNCIL NEWSLETTER (Poverty & Race Research Action Council, Washington, D.C.), Jan./Feb. 2005, at 1, available at <http://www.prrac.org/newsletters/janfeb2005.pdf>.

161. Section 152 of the Housing and Community Development Act of 1992 authorized this project. See 42 U.S.C.A. § 1437(f) (West 2003).



neighborhood."<sup>162</sup> This finding is important because it suggests that "it is possible for the U.S. Department of Housing and Urban Development (HUD) and local public housing authorities to successfully operate an economic and racial desegregation program using Section 8 rental assistance in different metropolitan markets."<sup>163</sup> In addition, these mobility programs enhanced personal safety and security.<sup>164</sup> Across other levels of indicia, however, such as relocatees' subsequent educational attainment, employment status, earnings, and health, evidence is mixed, although still quite positive.<sup>165</sup>

The Gautreaux Program grew out of *Hills v. Gautreaux*,<sup>166</sup> in which the Supreme Court held that an interdistrict remedy could be imposed against HUD for intentionally segregating public housing within the city of Chicago.<sup>167</sup> This remedy "became the country's largest and longest-running residential, racial, and economic integration effort."<sup>168</sup> An explicit goal of the program was the "movement of low-income Black families into predominantly white areas. . . ."<sup>169</sup> All told, the program lasted seventeen years, and served approximately 6,000 families.<sup>170</sup>

Overall, the experiences of the Gautreaux participants who moved to the suburbs were positive across a wide variety of indicia. The Gautreaux movers perceived their "new suburban neighborhoods as much safer than

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162. PRRAC NEWSLETTER, *supra* note 160, at 14.

163. John Goering, *Comments on Future Research and Housing Policy*, in CHOOSING A BETTER LIFE?: EVALUATING THE MOVING TO OPPORTUNITY SOCIAL EXPERIMENT 383, 383 (John Goering & Judith D. Feins eds., 2003) [hereinafter CHOOSING A BETTER LIFE?].

164. PRRAC NEWSLETTER, *supra* note 160, at 14 ("Research to date clearly establishes that assisted housing mobility yields dramatic improvements in safety and security.").

165. *See id.* at 14-16.

166. 425 U.S. 284 (1976).

167. *Id.* at 297. HUD was found liable for providing financial assistance and otherwise supporting the Chicago Housing Authority's (CHA) discriminatory policies for siting public housing and selecting tenants. *Id.* at 286. CHA's segregation policy was brutally effective: "evidence submitted to the District Court established that the public housing system operated by CHA was racially segregated, with four overwhelmingly white projects located in white neighborhoods and with 99 1/2 % of the remaining family units located in Negro neighborhoods and 99% of those units occupied by Negro tenants." *Id.* at 287.

168. RUBINOWITZ & ROSENBAUM, *supra* note 160, at 2.

169. *Id.* at 39. Under the program, HUD provided participants with rental assistance allowing them to secure housing in the private market. *Id.* at 37. Specifically, the Gautreaux Program provided recipients with Section 8 rental assistance, which provides "rent subsidies for low-income families to live in private housing, making up the difference between the market rent and a specified percentage of tenants' income." *Id.* The program required that at least 75% of the participants live in the suburbs, and it capped the number of participants who could choose to live in areas with large proportions of minority group members. *Id.* at 40. "The suburban movers left neighborhoods that were over 90 percent Black and entered areas that averaged 96 percent white." *Id.* at 105. The program also provided housing counseling to participants, providing them with information about housing opportunities in suburban communities, and worked with the suburban real estate industry to facilitate the entry of black families into the suburbs. *Id.* at 41-42.

170. *Id.* at 67, 188. The program was formally established in 1981 and ended in early 1998. *Id.* at 188.

their former city neighborhoods-both during the day and at night.”<sup>171</sup> While there is no question that some participants experienced racial hostility and negative social interactions in their new settings,<sup>172</sup> those negative interactions decreased over time and many participants reported “finding a sense of community that they felt was lacking in their city neighborhoods.”<sup>173</sup> Also, the suburban Gautreaux movers were more likely to form interracial friendships than those who remained in the city.<sup>174</sup> Suburban movers also experienced enhanced educational and employment opportunities. As compared to their urban counterparts, children who transitioned to the suburbs experienced lower drop-out rates, were more likely to take college-prep courses, attend college, and attained higher grades and levels of academic achievement.<sup>175</sup> Finally, suburban youth were more likely to find employment and earn more money at more highly skilled jobs.<sup>176</sup>

In the mid-1990s, the federal government embarked on a significant social experiment: the Moving to Opportunity for Fair Housing (MTO) program.<sup>177</sup> The program was designed to determine whether Section 8, the federal rental assistance program, “could be effectively used to assist poor, largely minority families in successfully relocating to private rental housing in working-class or middle-class neighborhoods.”<sup>178</sup> Under the program, public housing residents in five cities were asked to volunteer to receive federal rental assistance.<sup>179</sup> Eligible participants were then randomly assigned to one of three groups. The first group (hereinafter, the MTO “treatment group”) required that recipients use their rent credit in low-poverty areas, remain for at least one year, and receive housing counseling assistance.<sup>180</sup> Participants in the other two groups were not required

171. *Id.* at 94.

172. *See id.* at 105-09, 112-17 (describing incidents of “race-based social rejection in daily activities,” such as shopping, “social distance” and social exclusion, and some suburban parents’ refusal to let their children play with Gautreaux children).

173. *Id.* at 109 (emphasis omitted). “While the harassment made the newspaper headlines, the real story was the quiet general acceptance by the larger community.” *Id.* at 121.

174. *Id.* at 125.

175. *See id.* at 164-66. There was no statistically significant difference between the grades attained by the city students as compared to the suburban ones. *Id.* at 164. However, given the higher academic standards in the suburban schools, “the suburban movers’ achievement might have been higher than that of the city movers.” *Id.*

176. *Id.* at 166-67; *see also* Turner PRRAC NEWSLETTER, *supra* note 160, at 14 (Gautreaux research found that the children of suburban movers were “substantially more likely to complete high school, take college-track courses, attend college and enter the work force than children from similar families who moved to neighborhoods within Chicago.”).

177. *See generally* RUBINOWITZ & ROSENBAUM, *supra* note 161.

178. John Goering et al., *What Have We Learned about Housing Mobility and Poverty Deconcentration?*, in *CHOOSING A BETTER LIFE?*, *supra* note 163, at 3, 6.

179. *Id.* at 10. Participating cities included Baltimore, Boston, Chicago, Los Angeles, and New York. *Id.*

180. *Id.* at 11. The express purpose of housing counseling assistance was to “help the client move with Section 8 assistance to a low-poverty area.” JUDITH D. FEINS ET AL., *COUNSELING IN THE MOVING TO OPPORTUNITY PROGRAM FOR FAIR HOUSING DEMONSTRATION PROGRAM ES-6* (1997).

to use their housing assistance in low-poverty suburbs. Thus, the members of these two groups formed a useful "control" group against which the success of participants who moved to the suburbs could be judged.<sup>181</sup>

Many treatment group families significantly benefited from the program.<sup>182</sup> As compared to members of the other groups, MTO treatment group families lived in more racially and economically mixed communities.<sup>183</sup> Second, MTO treatment group children in Boston and Baltimore attended better schools.<sup>184</sup> Third, there were "significant reductions in risky behavior, especially in marijuana use and smoking" for girls between the ages of 15 and 19.<sup>185</sup> Fourth, MTO treatment group adults showed significant improvements in mental health and obesity.<sup>186</sup> Finally, many MTO treatment group families remained in the areas they had chosen long after the one-year requirement.<sup>187</sup> Thus, "beneficial, statistically significant changes have occurred in families' lives within two to four years of their participation in MTO."<sup>188</sup>

Unfortunately, the MTO program was met with race-based political fallout.<sup>189</sup> Opposition to the MTO program was particularly acute in Baltimore County, where county residents formed an association explicitly

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181. Under the program, eligible participants could be assigned to: "1) an MTO Treatment Group, which receives Section 8 certificates or vouchers useable only in areas with less than 10 percent poverty, along with counseling assistance in finding a private rental unit; 2) a Section 8 Comparison Group, which receives regular Section 8 certificates or vouchers with no special geographic restriction or counseling; and 3) an In-Place Control Group, which continues to receive their current project-based assistance." *Id.* at ES-1-2. My discussion of the MTO program results are based on comparisons between the experiences of the Treatment Group and the other two groups in the program.

182. PRRAC NEWSLETTER, *supra* note 160, at 14-15.

183. See Goering et al., *supra* note 178, at 19-26.

184. *Id.* at 26. ("Research teams in both Boston and Baltimore were able to demonstrate that schoolwide reading and math scores or pass rates were significantly better in the treatment group children's schools, relative to the schools attended by children of in-place control group families."). In a recent assessment of mobility programs, Turner and Acevedo-Garcia found "no evidence that MTO moves have led to better educational outcomes." PRRAC NEWSLETTER, *supra* note 160, at 14. One potential explanation for this finding, which contrasts sharply with the experiences of Gautreaux movers, is that relatively few of the MTO movers "left central city school districts. Moreover, some MTO children continue to attend the same schools, despite the fact that their families have moved." *Id.*

185. PRRAC NEWSLETTER, *supra* note 160, at 15. Unfortunately, MTO boys did not experience a similar benefit: "MTO boys in this age range, however, exhibit significant increases in smoking and arrests for property crime." *Id.* Turner and Acevedo-Garcia have posited racial profiling as at least one potential explanation for this divergence. On this view, "black and Hispanic boys moving to integrated or predominantly white neighborhoods are not engaging in any more criminal behavior, but are being arrested more due to racial profiling." *Id.*

186. *Id.* at 15.

187. Goering et al., *supra* note 178, at 17-18 (Almost 75% of the MTO families were still living in low-poverty communities after the first year. "These 1997 data suggest that the movers remained in the new areas long enough for the hypothesized benefits of better neighborhoods to begin accruing.").

188. John Goering, Judith D. Feins, and Todd M. Richardson, *A Cross-Site Analysis of Initial Moving to Opportunity Demonstration Results*, 13 *Journal of Housing Research* 1, 23 (2002).

189. See John Goering, *Political Origins and Opposition*, in CHOOSING A BETTER LIFE?, *supra* note 163, at 37, 47-48.

intended to discredit the program.<sup>190</sup> Indeed, community opposition to the MTO in Baltimore led directly to HUD's decision to terminate a second stage of the program.<sup>191</sup> The subsequent reduction in the program's size enhanced the national perception that mobility programs intended to de-concentrate poverty and promote integration cannot succeed.<sup>192</sup>

The difficulty encountered by the MTO program is no indication that housing mobility initiatives in general are doomed to fail. First, it is important to note that the MTO program did not end altogether as a result of community opposition in Baltimore; the program continued for several years despite its reduced size.<sup>193</sup> Second, there is a strong argument that community opposition in Baltimore was exacerbated by program administrators' general ineptitude.<sup>194</sup> Proper planning and proactive responses to community concerns could have reduced opposition.<sup>195</sup> Third, "[n]one of the other MTO sites experienced any comparable community or political opposition," suggesting that the Baltimore County experience demonstrates the region's unique demographics and should not be extrapolated to undermine the viability of all mobility programs.<sup>196</sup>

Overall, the Gautreaux and MTO programs illustrate the transformational promise that lies at the heart of radical integration. They demonstrate that housing mobility programs can facilitate minority and low-income families access to better neighborhoods and that "neighborhoods profoundly affect the well-being and life chances of their residents."<sup>197</sup>

Along these lines, Alexander Polikoff recently made a bold call for a new national Gautreaux Program—a challenge that is consistent with the concept of radical integration.<sup>198</sup> Polikoff's proposal is premised on the notion that "unremitting, intergenerational persistence of ghetto poverty"<sup>199</sup> can best be eradicated by a large-scale mobility program.<sup>200</sup> Under Polikoff's proposal, the federal government would offer 50,000 new

190. *Id.* at 47.

191. *Id.* at 49.

192. *Id.* ("[T]he trouble in Essex directly translated into a setback for the administration's efforts to promote more regional mobility with the Section 8 program."); see also Karen DeWitt, *Housing Voucher Test in Maryland is Scuttled by a Political Firestorm*, N.Y. TIMES, Mar. 28, 1995, at B10.

193. Goering, *supra* note 189, at 51.

194. *Id.* at 49. Senator Barbara Mikulski offered this assessment: "The program has been bungled by the city administration and by the group that was supposed to administer it . . . There has not been enough consultation with the community out there. That has exacerbated discontent to the point that it would buy only a hollow opportunity for the poor people in the program." *Id.*

195. *Id.* at 50-51.

196. *Id.* at 51-52.

197. Ingrid Gould Ellen & Margery Austin Turner, *Do Neighborhoods Matter and Why?*, in CHOOSING A BETTER LIFE?, *supra* note 163, at 313, 331.

198. See Alexander Polikoff, *Racial Inequality and the Black Ghetto*, POVERTY & RACE RES. ACTION COUNCIL NEWSLETTER (Poverty & Race Research Action Council, Washington, D.C.), Nov./Dec. 2004, at 1, available at <http://www.prrac.org/newsletters/novdec2004.pdf>.

199. *Id.* at 1.

200. See *id.* at 8.



housing vouchers to help black families move to "middle-class neighborhoods far from the ghetto."<sup>201</sup> Such vouchers could only be used in "census tracts with less than ten percent poverty and [in areas that are] not minority impacted."<sup>202</sup> Polikoff is not sanguine about resistance to black entry into white neighborhoods. Thus, his proposal would limit use of such vouchers in any particular location to a "small fraction of occupied housing units"<sup>203</sup> in order to avoid "'threatening' any receiving community. . . ."<sup>204</sup>

Such a program would certainly face major political, practical, and legal obstacles. Indeed, several prominent commentators have already provided insightful critiques of the Polikoff plan.<sup>205</sup> For instance, a program that sets aside a federal benefit for black individuals may not survive constitutional challenge. Even if it did, limiting participation to only blacks, rather than using class as a selection criteria, may not be politically expedient.<sup>206</sup> In this vein, Sheryll Cashin has suggested extending eligibility to people already residing in high-poverty communities, rather than basing eligibility criteria solely on race.

At the same time, however, there is much to admire in Polikoff's proposal from a radical integration perspective. A national Gautreaux program exemplifies how the unique harms created by racial segregation are mended as black individuals are offered access to the benefits of white-dominated space.

### III

#### RADICAL INTEGRATION: INDIVIDUAL IDENTITY FORMATION IN AN INTEGRATED ENVIRONMENT

The housing mobility programs I discussed provide a tantalizing glimpse into the possibilities of radical integration. By strongly focusing on

201. *Id.* Polikoff contemplates that 100,000 new vouchers would be funded each year, leaving vouchers available to individuals who did not wish to take part in the mobility program. *Id.* Participants' moving costs and funds for housing counseling assistance would also be provided under the program. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*

205. See *Symposium: A National Gautreaux Program*, POVERTY & RACE RES. ACTION COUNCIL NEWSLETTER (Poverty & Race Research Action Council, Washington, D.C.), Nov./Dec. 2004, at 3, available at <http://www.prrac.org/newsletters/novdec2004.pdf>. Sheryll Cashin argued, for instance, that Polikoff's plan would face "serious constitutional challenges," and would be "extraordinarily difficult to sell to Congress." Sheryll Cashin, *Getting the Politics Right on a National Gautreaux Program*, in *Symposium: A National Gautreaux Program* at 3, 6. John A. Powell suggested that Polikoff's proposal pays insufficient attention to "whiteness and the inherent way it has been constructed and maintained." John A. Powell, *Needed: More Focus on Whiteness*, in *Symposium: A National Gautreaux Program*, at 3, 4. Yet another commentator argues that Polikoff's proposal will be ineffective if landlords can continue to refuse housing vouchers. Libby Perl, *Needed Element: Laws Prohibiting Source of Income Discrimination*, in *Symposium: A National Gautreaux Program* at 3, 8.

206. Cashin, *supra* note 205, at 6.

the harms of segregation, these programs align with the first core theme of radical integration. However, radical integration is also predicated on a second core element: the importance of black identity formation in an integrated environment. This discussion must necessarily begin at individualism because it is the most elemental component of identity formation.

#### A. *Individualism: Harmonizing the Approaches*

The individual is elemental to the concept of radical integration. Radical integration focuses on eradicating racial segregation, which constrains black individuals' access to economic, educational, political, social, and cultural opportunities. Radical integration is about enhancing individual choice given the systemic and continuing constraints perpetuated by racial segregation. But as I have suggested above, one argument is that integration's commitment to liberal individualism—as opposed to race and group consciousness—caused it to fall out of favor.<sup>207</sup> Indeed, a primary critique of integration has been its link to liberalism as a political philosophy, which focuses on the individual as the central unit of concern. Alternatively, the identity-based, community-centered approach, with its emphasis on identity development within a group context, appears to be in direct conflict with integration's emphasis on individual choice. However, because both approaches share a concern for black individuals, they are not entirely in conflict.

The identity-based, community-centered approach privileges racial dissimilarity. As Richard T. Ford suggested, much current civil rights discourse is premised on an “insistence on racial difference”<sup>208</sup> that is, the notion that “racial identity is defined by a set of *objective characteristics* shared by members of the race.”<sup>209</sup> This emphasis on difference suggests that for black to mean something, it must be different than those characteristics associated with whites.

In the past, black had a negative association that connoted inferiority. Thus, going forward, the category must be endowed with positive associations and attributes.<sup>210</sup> The term black must be rebranded. This process of rebranding is the sine qua non of the identity-based, community-centered approach, which focuses on creating a separate black identity over which the black community has control. Under this approach, blacks cast off a negatively constructed identity that was imposed from without and

207. See *supra*, Introduction.

208. Richard T. Ford, *Beyond “Difference”: A Reluctant Critique of Legal Identity Politics*, in *LEFT LEGALISM/LEFT CRITIQUE* 41 (Wendy Brown & Janet Halley eds., 2002).

209. *Id.* at 49.

210. See K. Anthony Appiah, *Race, Culture, Identity: Misunderstood Connections*, in *COLOR CONSCIOUS: THE POLITICAL MORALITY OF RACE* 30, 99 (K. Anthony Appiah & Amy Gutman eds., 1996).

exchange it for a positively constructed identity developed from within.<sup>211</sup> This desire to construct an identity for oneself is powerful and undeniable; it is the need, as Charles Taylor has described it, for "recognition."<sup>212</sup>

Both the integration and identity-based, community-centered approaches are based on the importance of enhancing individual self-determination. While the identity-based, community-centered approach is concerned with the rights and dignity of the group, it is also concerned with eradicating the debilitating effects of disrespect for the individuals within the group.<sup>213</sup> Thus, this vision also embraces the idea that black individuals must be fully respected as equals from a distinct and valued sub-culture.<sup>214</sup> The need for "recognition" in its strictest sense is the desire for an individual to experience affirmation and identity development in a society that historically undervalued, scorned, and ridiculed that group.<sup>215</sup>

Thus, whether we are concerned with a person's identity development or with the ability to access the opportunity structure,<sup>216</sup> each approach holds that self-definition and self-actualization within a context of constraint and inherited inequality is essential. These twin approaches simply highlight different components of what is necessary to eradicate racial subordination and achieve equality. By emphasizing the individual we recognize that breaking down barriers and eliminating segregation in all forms is insufficient; individuals also need to understand themselves positively both within indigenous black communities, and as black individuals existing in predominantly white environments.

Indeed, the political philosopher Will Kymlicka attempted to harmonize liberalism as a political philosophy with community and cultural membership, arguing that individualism and community and cultural attachment are not inconsistent.<sup>217</sup> He suggests that liberal individualism need not necessarily be defined narrowly to favor individual choice and attachments over social commitments. Instead, "[l]iberal individualism is rather an insistence on respect for each individual's capacity to understand

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211. Robert S. Browne made such an argument toward the end of the 1960s. He argued that white racism deprived blacks of their indigenous culture; thus, the history of American race discrimination created a black "identity crisis which presumably does not exist in the mind of the integrationist." BROWNE & RUSTIN, *supra* note 52, at 7, 8. This identity crisis requires affirming the worth of each member of the black community and emphasizing that blacks have "a beauty of their own, a glorious history, and a great future." *Id.* at 9.

212. See CHARLES TAYLOR, MULTICULTURALISM AND "THE POLITICS OF RECOGNITION" 25-26 (1992).

213. See generally Johnson, *supra* note 19, at 1443-46 (describing the costs of integration on both black individuals and on the African American community more generally).

214. *Id.* at 1446, 1452 (describing the hostility associated with some integrated environments and arguing that African-Americans have "developed their own community with norms that must be respected and internalized in the larger pluralistic society").

215. See TAYLOR, *supra* note 212, at 25-26.

216. See POWELL, *supra* note 84, at 758.

217. KYMLICKA, *supra* note 17, at 253.

and evaluate her own actions, to make judgments about the value of the communal and cultural circumstances she finds herself in."<sup>218</sup> From this perspective, focus on the individual as the predominate unit of concern is not inconsistent with an individual's communal attachments. Integration allows individuals to choose which community or communal affiliations are most appropriate for them. However, such choices are deeply constrained under the current system of segregation.

But will an explicit focus on the individual and her choices prove counterproductive, and ultimately destroy the black community?<sup>219</sup> No doubt tension exists between the individual need for self-fulfillment and needs of the community. And it may well be that this tension cannot always be mediated. At some point, it may be impossible to accommodate, for instance, a community norm that values geographic solidarity, with an individual's desire to live in a more diverse community. Here, accommodation may be difficult, if not impossible. To the extent that this holds true, radical integration ultimately emphasizes autonomy and individuality over community.<sup>220</sup>

However, within radical integration, we must constantly reinterpret and reinvent the meaning of membership in a black community. There are many different ways to inhabit a community; they can be bounded by geography or be defined by race, class, gender, sexual orientation, religion, or political membership. Communities can also be defined by affiliation, preference, experience, or knowledge. Hence, many different black communities exist and there is no single, constant definition of black identity.<sup>221</sup> Being black has as many definitions as there are individuals who comprise the group. It is perhaps more accurate to speak of individuals as possessors of multiple identities,<sup>222</sup> reflective of not just a particular racial or ethnic identification, but also of a host of other highly salient group-based characteristics.<sup>223</sup>

218. *Id.* at 254.

219. See Austin, *supra* note 1, at 1815 (asserting that there are multiple black communities).

220. See K. ANTHONY APPIAH, *IDENTITY AGAINST CULTURE* 26 (1994) (characterizing demands that individuals behave in ways that are consistent with African-American or gay "scripts" as replacing "one kind of tyranny with another").

221. BEVERLY DANIEL TATUM, "WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA?" 18 (1997) (asserting that identity is complex and multidimensional, thus racial identity is "mediated by other dimensions of oneself").

222. Kimberle Crenshaw, *Mapping The Margins: Intersectionality, Identity Politics, And Violence Against Women Of Color*, 43 STAN. L. REV. 1241, 1242-43 (1991) ("exploring the race and gender dimensions of violence against women of color," and arguing that "[c]ontemporary feminist and antiracist discourses have failed to consider intersectional identities such as women of color").

223. See *id.* at 1242; TATUM, *supra* note 221.



### B. Identity Formation

As an ideology, radical integration must include at least some account of how black individuals can form strong, positive black identities within a truly integrated society. Returning to the story which began this Article enables us to explore the identity-based concerns raised by radical integration, and some responses to those concerns.

One interpretation of the story is that the adult knowingly exposed her young charge to a hostile social situation. The child would likely perceive the environment as hostile because she lived in a predominantly black community. From this perspective, thrusting the child into a situation so clearly outside her norm was tantamount to exposing the child to a hostile environment—not because the white children in the pool might reject the black child, but because the black child would experience an identity crisis. To add insult to injury, the aunt's pressure to "get in the pool," communicated to the child that something was wrong with her reaction, and that her reticence was somehow misplaced. The aunt's urgent appeals suggested that going swimming was required to satisfy unspoken goals beyond the simple desire to swim. But if that were true, wouldn't it simply validate the child's initial reticence? From this perspective, the aunt's push for integration entailed an identity-based cost on the child.

Now imagine a slightly different take on our story. Imagine a different black child who grows up in an integrated community visiting the same swimming pool. How might that child react under the same conditions? This child might freely partake of the swimming opportunity because she was already acclimated to a racially mixed environment. Thus, one clear advantage of integration from a psychographic perspective is that black individuals acculturated in racially diverse environments are poised to take advantage of a wider variety of societal resources.<sup>224</sup> In contrast to my niece, this child's identity arises directly within the context of her inclusion in integrated environments, not in opposition to it.

These scenarios raise at least two interrelated problems. The first is a fear of losing a black identity altogether. Thus, the anxiety experienced by many reluctant "integration warriors" is that they must somehow "pass" in order to partake of the advantages generated by integration.<sup>225</sup> Second is a

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224. For instance, in reviewing literature which studied the long-term effects of school desegregation, Amy Stuart Wells described the advantages of integration in the following manner:

[W]e found that black graduates of racially integrated schools were more likely to have higher occupational aspirations and expectations and to be aware of the steps they needed to take to obtain their goals. This finding speaks to the "suppression of the inferiority complex" that both Du Bois and Braddock wrote about; once black students have the opportunity to compete and interact with white students, they are less afraid that they cannot be successful in mixed race situations and will often be less likely to avoid integrated situations in the future.

Wells, *supra* note 107, at 794 (citations omitted).

225. Calmore, *supra* note 19, at 1448-50 (arguing that successful integration entails "a sociological and cultural passing by people of color").

concern that black individuals may not be able to develop a positive black identity in an integrated setting given the continuing reality of white supremacy. An overriding concern with racial identity formation is that a black individual needs a strong and positive sense of self to survive and flourish in a white-dominated culture.

A strong racial or ethnic identity is central to self-protection and self-actualization, and it is a necessary precursor to success in American society. Ethnic or racial identity refers to a "person's knowledge of belonging to an ethnic [or racial] group and pride in that group."<sup>226</sup> Along these lines, Jean S. Phinney and Doreen A. Rosenthal suggested that:

minority adolescents may have to confront issues of prejudice and discrimination, structural barriers which limit their aspirations and hinder their achievements, and other features of the mainstream society that differentiate them from the majority. If minority youth are to construct a strong, positive, and stable self identity, then they must be able to incorporate into that sense of self a positively valued ethnic identity.<sup>227</sup>

Concentrated residential spaces, such as predominantly black neighborhoods, can construct and maintain racial and ethnic identity. Such spaces facilitate continued, intimate interpersonal contact among members of the same racial or ethnic group. For instance, Stephen Cornell and Douglas Hartmann argued that identity formation occurs within a variety of "critical construction sites," including residential space.<sup>228</sup> Thus, "[t]o the extent that interactions are dense and frequent within the ethnic or racial boundary and dispersed and infrequent across it, the more likely group members are to see their ethnic or racial identity as an important feature of their lives, and to engage in practices particular to the group."<sup>229</sup>

Nevertheless, racial segregation is not a precondition for racial identity development. An individual's racial or ethnic identity is derived from, and created within, a wide variety of contexts. Looking at identity development solely from a geographically black community understates the complexity of racial and ethnic identity development. As Cornell and Hartmann suggest, residential space is only one of several identity formation sites.<sup>230</sup> Racial or ethnic identity is also formed through the relative political power an individual's racial group exerts,<sup>231</sup> labor market

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226. Frances E. Aboud & Anna-Beth Doyle, *Early Development of Ethnic Identity and Attitudes*, in *ETHNIC IDENTITY: FORMATION AND TRANSMISSION AMONG HISPANICS AND OTHER MINORITIES* 47, 47 (Martha E. Bernal & George P. Knight eds., 1993).

227. Jean S. Phinney & Doreen A. Rosenthal, *Ethnic Identity in Adolescence: Process, Context, and Outcome*, in *ADOLESCENT IDENTITY FORMATION* 145, 145 (Gerald R. Adams et al. eds., 1992).

228. STEPHEN CORNELL & DOUGLAS HARTMANN, *ETHNICITY AND RACE: MAKING IDENTITIES IN A CHANGING WORLD* 154 (1998).

229. *Id.* at 168.

230. *See id.* at 153-54.

231. *See id.* at 154-60.

stratification,<sup>232</sup> an individual's interaction with particular cultures,<sup>233</sup> an individual's daily experiences with stereotypes and discrimination,<sup>234</sup> and an individual's interactions with the social organizations and institutions that comprise civil society.<sup>235</sup> To Cornell and Hartmann's taxonomy, I would also add the importance of an individual's parental influences and kinship interactions.<sup>236</sup> All these factors influence racial and ethnic identity formation, suggesting that residential segregation is not a precondition for racial identity development.

Nonetheless, Cornell and Hartmann's taxonomy of racial and ethnic identity formation suggests that at least some relationship between racial identity formation and separateness exists. These elements focus on the political, social, and economic boundaries between majority and minority groups. This suggests that the greater the boundaries between the dominant group and minority group members, the more importance or salience racial identity formation will have.<sup>237</sup> Racial or ethnic identity formation need not have residential segregation to exist, but racial or ethnic identity is most salient where barriers between groups are high.

### C. *Constructing Post-Segregation Identity*

Radical integration accepts the possibility that racial or ethnic identity may well have less salience as segregation decreases. Some loss of the sensation of "difference" is to be expected as boundaries between majority and minority groups are blurred.<sup>238</sup> But there may be other ways to construct racial and ethnic identity outside of segregation. Radical integration acknowledges the importance of racial and ethnic identity formation particularly as it relates to black individuals' ability to self-actualize in a white-dominated society. Hence, the guiding question of the inquiry is whether black individuals are sufficiently equipped to meet the challenges of a

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232. See *id.* at 160-64.

233. See *id.* at 173-84.

234. See *id.* at 184-89.

235. Cornell and Hartmann describe "social institutions," including the "schools, churches, social service organizations, sources of financial credit, retail services, and all of the other formally organized mechanisms by which the members of a society solve the various problems of daily living," as sites of identity development. *Id.* at 168. Cornell and Hartmann's definition of social institutions maps directly onto the concept of "civil society." See DAVID CARROLL COCHRAN, *THE COLOR OF FREEDOM: RACE AND CONTEMPORARY AMERICAN LIBERALISM*, 103 (1999) (describing the concept of "civil society" at its broadest as a "network of [non-governmental] institutions, practices, and meanings that [all Americans] contribute to and draw upon;" it is within civil society that "men and women live their everyday lives").

236. See William E. Cross, Jr. & Peony Fhagen-Smith, *Patterns of African American Identity Development: A Life Span Perspective*, in *NEW PERSPECTIVES ON RACIAL IDENTITY DEVELOPMENT* 243, 250-51 (Charmaine L. Wijeyesinghe & Bailey W. Jackson III eds., 2001).

237. See CORNELL & HARTMANN, *supra* note 228, at 190.

238. *Id.* at 155.

white dominated world? I highlight three possibilities that relate to individual choice.

First, racial identity will remain salient because significant barriers among groups are likely to persist even as we move toward a more integrated society. Racial identity develops from a shared history and experience of racial discrimination, even though discriminatory treatment manifests itself differently in different contexts. Thus, individuals identify as black to the extent that they understand their own personal welfare as tied to the social, political, and economic status of other blacks, even in the absence of close geographic proximity. Racial solidarity is often driven by a sense of "linked fate," particularly for those who "perceive blacks as a subordinate and exploited group in American society."<sup>239</sup> Thus, individuals might identify as black even outside predominantly black communities because of an appreciation for past discrimination and the ongoing challenges that blacks face. Therefore, black, as a racial category, will remain important, generating a sense of racial solidarity notwithstanding its socially constructed nature.<sup>240</sup>

A second possibility stresses the ability of black individuals to choose their own racial identity, as suggested by Hawley Fogg-Davis's notion of "racial navigation."<sup>241</sup> In a trenchant analysis of the ethics of transracial adoption, Fogg-Davis argues that instead of passively absorbing a particular racial identification, "individuals should challenge existing racial meanings by creating flexible racial self-understandings in a lifelong process of self-reflection and revision."<sup>242</sup> For example, black children adopted by white parents confront a "descriptive gap" between their racial classification and that of their parents.<sup>243</sup> In the process of developing their individual identities, these children must bridge that gap in a meaningful and healthy manner. According to Fogg-Davis, individuals can and should make choices about how they define themselves. At the same time, however, those choices are made "within and against" existing social conventions and racial categories, and thus are shaped by them.<sup>244</sup> Ultimately, an individual's self-identity is actively chosen and not

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239. MICHAEL C. DAWSON, *BEHIND THE MULE: RACE AND CLASS IN AFRICAN-AMERICAN POLITICS* 80 (1994); see also HAWLEY FOGG-DAVIS, *THE ETHICS OF TRANSRACIAL ADOPTION* 18 (2002) (describing "linked fate").

240. See Michael Omi & Howard Winant, *Racial Formation in the United States*, in *THE IDEA OF RACE* 183, 183 (Robert Bernasconi & Tommy L. Lott eds., 2000) (arguing that while race may invoke phenotypes or "biologically based human characteristics," that race is fundamentally a social construct "signify[ing] and symboliz[ing] social conflicts and interests by referring to different types of human bodies.").

241. See FOGG-DAVIS, *supra* note 239, at 16-21.

242. *Id.* at 2.

243. *Id.* at 16-17.

244. *Id.* at 17-18.



passively received.<sup>245</sup> Similarly, radical integration requires individuals to engage in racial navigation, determining for themselves the nature of their own identity and how that identity fits within the larger societal scheme.<sup>246</sup>

A third possibility is the hyphenated ethnicity model. Black individuals living in integrated communities might identify as members of an ethnic rather than a racial group in the same way that Irish-Americans, Italian-Americans, and Jewish-Americans define themselves.<sup>247</sup> For instance, Herbert J. Gans argues that ethnicity is primarily a matter of identity rather than participation in ethnic cultures and organizations.<sup>248</sup> For individuals residing outside ethnic neighborhoods, ethnic identity is prioritized over cultural practices or group relationships.<sup>249</sup> Gans thus posits a free-floating form of ethnic identity. Under this view, individuals are:

free to look for ways of expressing that identity which suit[s] them best, thus opening up the possibility of voluntary, diverse or individualistic ethnicity. Any mode of expressing ethnic identity is valid as long as it enhances the feeling of being ethnic, and any cultural pattern or organization which nourishes that feeling is therefore relevant, providing only that enough people make the same choice when identity expression is a group enterprise.<sup>250</sup>

To Gans, ethnic identity is primarily symbolic, manifesting itself as behavior expressing a nostalgic allegiance to the cultural mores of an earlier generation, adherence to certain traditions real or imagined, and a desire for "an extended immigrant family."<sup>251</sup> The emergence of symbolic ethnic identity does not mean, however, that ethnic identity is meaningless. Rather, it may be "an indicator of the persistence of ethnic groups and cultures."<sup>252</sup>

Indeed, the growing popularity in many black communities of celebrating Kwanzaa is illustrative. Kwanzaa stresses "Africanness and our social justice tradition," and is a multi-day cultural observance which reflects a "self-conscious commitment to return to our own history and to recover the enduring richness of our own culture, its values, insights and instructive practices and to use it as a constant resource to inform, enrich

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245. See *id.* at 17-20.

246. For a trenchant example of the complexity of navigating black identity, see LISA JONES, *BULLETPROOF DIVA: TALES OF RACE, SEX, AND HAIR* 31 (1994) ("[B]y claiming African American and black, I also inherit a right to ask questions about what this identity means. And that chances are this identity will never be static, which is fine by me.").

247. See CORNELL & HARTMANN, *supra* note 228, at 32-33 (Irish, Jewish and Italian Americans are "generally viewed today as ethnic groups.").

248. See Herbert J. Gans, *Symbolic Ethnicity: The Future of Ethnic Groups and Cultures in America*, 2 *ETHNIC AND RACIAL STUDIES* 1, 7 (1979).

249. *Id.* at 8.

250. *Id.* at 9.

251. *Id.*

252. *Id.* at 12.

and expand our lives.”<sup>253</sup> At the same time, however, the celebration is hardly orthodox; there are few mandatory rules or rites.<sup>254</sup> Rather, the celebration is improvisational, allowing participants to add “personal touches and focus on inner talents,” while at the same time joining in a shared celebration and acknowledgement of African heritage.<sup>255</sup>

But the hyphenated model of symbolic ethnicity presents its own set of problems. First, simply choosing to identify as a member of an “ethnic” rather than “racial” group does not remove the fact the racial categorization will continue to operate as a profound exclusionary mechanism. In this manner, race and ethnicity are not entirely synonymous.<sup>256</sup> Second, many would resist the kind of homogenization suggested by the hyphenated model. After all, if blacks are simply another ethnic group like Irish-Americans, Italian-Americans, or Jewish-Americans, then blacks are functionally white.<sup>257</sup> From this perspective, homogenization would fundamentally violate the momentous history of the black struggle for freedom, citizenship, and equality in this country. Thus identity development in an integrated setting involves the question of how to retain unique, black historical experience in a racially mixed environment. The deep core of the tension—to which I am not insensitive—is the belief that the cost of integration is too high because it risks sacrificing black identity in the process.

This line of thinking assumes, at least in part, that integration and black identity formation must necessarily be at odds. This perspective frames integration as I described it at the outset of this paper: as

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253. Dr. Maulana Karenga, Creator of Kwanzaa, The Annual Founder’s Kwanzaa Message-2004, <http://www.officialkwanzaawebsite.org/message04-pr.html> (last visited Oct. 9, 2005).

254. See Helyn Trickey, *Kwanzaa Feasts Highlight Heritage*, CNN.COM, Dec. 15, 2000, <http://archives.cnn.com/2000/FOOD/news/12/15/kwanzaa/index.html> (noting the seven principles that guide rather than rigidly structure the celebration. Thus, families “are urged to share stories illustrating unity, self-determination, collective work and responsibility, cooperative economics, purpose, creativity and faith”).

255. *Id.*

256. According to Cornell and Hartmann, “[r]ace has been the most powerful and persistent group boundary in American history, distinguishing, to varying degrees, the experiences of those classified as non-White from those classified as White, with often devastating consequences.” CORNELL & HARTMANN, *supra* note 228, at 25. Racial categories, which are derived from the perception of shared physical characteristics, have typically been externally imposed by a dominant group on a more subordinate one. See *id.* at 25-27. Ethnicity, on the other hand, “refers to perceived common ancestry, the perception of a shared history of some sort, and shared symbols of peoplehood.” *Id.* at 32. At the same time, race and ethnicity also overlap: “A human group might well meet both sets of criteria at once. The identification of common physical characteristics often also involves a claim to some form of shared ancestry; groups making such a claim typically claim a distinctive history as well and may signify their peoplehood in culturally distinctive ways.” *Id.* Ethnic categories have been more porous than racial categories; American society has been “far more reluctant to allow movement across racial boundaries than across ethnic ones.” *Id.* at 26.

257. See, e.g., NOEL IGNATIEV, *HOW THE IRISH BECAME WHITE I* (1995) (describing the process of Irish immigrant assimilation that allowed Irish-Americans to shed their status as “an oppressed race in Ireland” and become “part of an oppressing race in America,” thereby asserting that the Irish “became white”).

synonymous with assimilation, lacking in a structural aspect, and silent with respect to the need to create a racial identity. It emphasizes a bifurcation between a narrowly conceived vision of integration and the identity-based, community-centered perspective. Such a bifurcation suggests that there can be no middle ground between the two approaches. As I have suggested, such a dichotomy is false.

Radical integration posits a synthesis of the two approaches. The radical integration approach recognizes the importance of identity development, but takes the position that a positive black identity can be acquired and maintained in an integrated environment. At the same time, the two identity-based critiques undergirding the identity-based, community-centered approach remain: the concern that black identity will be lost altogether in an integrated setting, and the apprehension that black individuals will not be able to form sufficiently robust racial identities to protect them from the negative effects of white supremacy.

True integration of the dominant culture, as conceptualized by John Powell helps to respond to these concerns.<sup>258</sup> Dominant culture must recognize the value of all racially defined groups as unique and deserving of respect. In the context of a discussion of school desegregation, John Powell described "true integration" as having:

a much broader meaning than desegregation. It is transformative rather than assimilative. That is, while desegregation assimilates minorities into the mainstream, integration transforms the mainstream. It does not assume that blacks will benefit if they sit next to whites and some of their whiteness rubs off on them. Rather it recognizes that cultures are not static but are constantly evolving and that all students benefit from a truly equal and just system of education. Integration is inclusive, placing value on the historical, intellectual, and cultural contributions of all groups.<sup>259</sup>

Powell's description of true integration is hardly an accurate assessment of the current social and cultural arrangements in mainstream U.S. culture, but is an aspirational goal. But this notion of "true integration" lies at the heart of "radical integration." The radical integration approach recognizes that the struggle to ameliorate racial inequality is tied to the continuing demand for true integration, or a simultaneous entry into the mainstream and for the concomitant transformation of it. Thus, radical integration is not a milquetoast acceptance of cultural assimilation, instead it demands: (i) true social, economic, and political enfranchisement for all blacks, (ii) voluntarily shared culture, history, customs, and traditions, all of which are respected by other groups, and (iii) rejection of the need to

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258. See Powell, *supra* note 57, at 3.

259. *Id.* at 20.

construct black identity in opposition to, or at the expense of, other racially or ethnically defined groups.<sup>260</sup>

Harmonizing integration and the identity-based, community-centered approaches leads to recognizing that radical integration does not require assimilation, but rather includes, *on a level of equality*, members of previously excluded groups within a system or hierarchy that provides important societal opportunities.<sup>261</sup> Indeed, assimilation is reframed from a concept that forces minorities to live by cultural standards not their own,<sup>262</sup> to one that takes into account that immigration trends have created a more racially diverse mainstream society comprised of non-Europeans.<sup>263</sup>

This new assimilation framework emphasizes how inclusion of members of racial and ethnic groups in the American mainstream fundamentally transforms American society.<sup>264</sup> Assimilation need not require "the disappearance of ethnicity; and the individuals undergoing it may still bear a number of ethnic markers."<sup>265</sup> Instead, this redefined assimilation signifies an individual's ability to retain their ethnic and racial identity in the context of American society's developing ability to accept members of racial and ethnic groups on their own terms.<sup>266</sup> With this understanding of

260. For other ethnic groups, identity constructs often included castigating blacks as the deviant "other." See Gans, *supra* note 248, at 15 ("[S]ince World War II, the ethnics have been able to shoulder blacks and other racial minorities with the deviant and scapegoat functions they performed in an earlier America.").

261. Powell, *supra* note 57, at 3 ("Because segregation creates a culture of racial hierarchy and subordination, true integration requires community-wide systemic efforts to dismantle this culture and create a more inclusive educational system.").

262. *Id.*; see also Tamar Jacoby, *Defining Assimilation for the 21st Century*, in *REINVENTING THE MELTING POT: THE NEW IMMIGRANTS AND WHAT IT MEANS TO BE AMERICAN* 10 (Tamar Jacoby ed., 2004) (indicating that for some "'assimilation' implies a forced conformity. They feel that it would require them to give up what makes them special, and they dread being reduced to what they see as the lowest common denominator of what it means to be American.").

263. See RICHARD ALBA & VICTOR NEE, *REMAKING THE AMERICAN MAINSTREAM* 10-11 (2003).

264. See *id.* at 11-12. As Alba and Nee explain it:

[M]ainstream culture, which is highly variegated in any event—by social class and region, among other factors—changes as elements of the cultures of the newer groups are incorporated into it. The composite culture that we identify with the mainstream is made up of multiple interpenetrating layers and allows individuals and subpopulations to forge identities out of its materials to distinguish themselves from others in the mainstream—as do, for instance, Baptists in Alabama and Jews in New York—in ways that are still recognizably American.

*Id.* at 13.

265. *Id.* at 11.

266. *Id.* Alba and Nee recognize the intractability of the color line in complicating the ability of black Americans to "assimilate" to the extent that that is their choice. *Id.* at 14. Their prediction, imagines two possible scenarios. One possible outcome is new-style assimilation where race loses some of its salience as an exclusionary mechanism. *Id.* at 290. A second more pessimistic scenario is the hardening of exclusionary racial distinctions in which the primary social divide in the United States would be between the category black which would include "Afro-Caribbeans and dark-skinned Hispanics, and everyone else." *Id.* This scenario would come to fruition if middle-class blacks continue to experience significant racial discrimination and newer immigrant minority groups attempt to



assimilation, we might conceive of radical integration as a theory under which individuals will decide for themselves what it means to be black, even as they develop their own sense of identity and self-definition in a multi-racial society.

#### D. Authenticity

I previously asserted that black individuals would be free to choose their own identity in a radically integrated environment. A related concern is what should be the *content* of an individual's identity, and who or what should determine that content. A person forming their racial identity might look to relationships with family members, and interactions with community members, organizations, and institutions that comprise black society.<sup>267</sup> On a broader level, racial identity formation also takes place through experiences at work, within the political arena, and against the background of interactions with larger social institutions and American culture more generally.<sup>268</sup> Given the various sources of influence, what does it mean to be genuinely and legitimately black? Cornel West offered this useful definition: "being black means being minimally subject to white supremacist abuse and being part of a rich culture and community that has struggled against such abuse."<sup>269</sup> Thus, being authentically black can mean many different things. While authenticity speaks of genuineness, credibility, and legitimacy,<sup>270</sup> the question of authenticity is problematic for at least three reasons. First, authenticity is constructed rather than inherently organic. Authenticity is created through a process by which some "set of group members or outsiders selects a version of identity and defines it as 'authentic,' granting it a privileged status."<sup>271</sup> This essentially arbitrary

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"distinguish themselves from blacks and advance their candidacy for membership in the white majority" as has been the case in the past. *Id.* at 291.

267. See Carolyn M. Elliott, *Civil Society and Democracy: A Comparative Review Essay*, in *CIVIL SOCIETY AND DEMOCRACY: A READER* 1, 7-8 (Carolyn M. Elliott ed., 2003) (defining "civil society" as the "space between the family and the state where people associate across ties of kinship, aside from the market, and independent of the state[,] . . . includ[ing] both relatively formal organizations and the informal array of friendships and networks of social life outside the family"). Black civil society is composed of many distinct, constitutive elements including the black church as well as "black mutual aid and benevolent societies, schools and colleges, fraternities and sororities, newspapers and magazines, neighborhood and professional associations, museums and libraries, businesses and credit unions, social clubs and sports leagues, political organizations and trade unions, and bars and dance halls." COCHRAN, *supra* note 235, at 105. Black civil society describes institutions, entities and organizations which are "defined and dominated by black Americans." *Id.* at 106. Black identity development is not confined solely to an individual's interaction with the components of black civil society. In addition to the organizations and entities which comprise black civil society, black cultural products such as "food, music, dance, dialect, dress, stories, poetry, literature, ceremonies, and holidays" also transmit black culture which develops black identity. *Id.*

268. CORNELL & HARTMANN, *supra* note 228, at 154.

269. WEST, *supra* note 133, at 39.

270. See Dictionary.com, <http://www.dictionary.com> (last visited Oct. 4, 2005).

271. Cornell & Hartmann, *supra* note 228, at 94.

version of identity is then used to distinguish between persons and identities.<sup>272</sup> Thus, when a majority of the group advances the view that specific (and unalterable) characteristics comprise the totality of the category, dissenters and outliers will experience discomfort. As K. Anthony Appiah suggested:

The politics of recognition requires that one's skin color, one's sexual body, should be politically acknowledged in ways that make it hard for those who want to treat their skin and their sexual body as personal dimensions of the self. And "personal" doesn't mean "secret" but rather "not too tightly scripted," and "not too constrained by the demands and expectations of others."<sup>273</sup>

Consequently, many reject notions of black authenticity as essentialist, given its assumption that a single, unadulterated black experience or identity exists.<sup>274</sup> Radical integration rejects essentialism in which there is a single set of fixed characteristics that define the totality of what it means to be black.

Second, black authenticity can become problematic where identity constructs result in offensive retreat. Returning to our story, using the identity-based, community-centered approach, the child's refusal to swim may be a positive outcome. Her refusal might be understood as an act of self-definition or even defiance. In at least one version of black authenticity, her refusal is interpreted positively because integration exacts too high a cost on the child. Radical integration does not discount the costs associated with integration, but instead emphasizes how in some contexts self-segregation can perpetuate, rather than challenge, the advantages whites accrued during de jure segregation.

A third concern is the role of authority and prestige associated with claims of black authenticity. Claims to authenticity that are backed by a suggestion of group consensus,<sup>275</sup> suggest that only the views of black people on race and equality who hail from (or who in some sense speak for) some real or imagined black community are worthy of attention. Policy proposals or legal doctrine claiming an authentically black perspective are problematic because they attempt to "trump political and ethical argument" by invoking "an undeniable history of racial abuse and racial struggle."<sup>276</sup> For these reasons, the radical integration perspective is skeptical of such policy proposals or legal doctrine.

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272. *Id.*

273. Appiah, *supra* note 210, at 99.

274. See generally Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745 (1989) (arguing against essentialism and the stereotyping of scholars of color in legal academia).

275. WEST, *supra* note 133, at 40 (indicating that claims of black authenticity hide behind "a deceptive cloak of racial consensus").

276. *Id.* at 39-40.

The problems that surface with claims of black authenticity are aptly illustrated in Justice Clarence Thomas' jurisprudence. Justice Thomas occupies a unique (and for some problematic) position on the current Court.<sup>277</sup> Since succeeding Justice Marshall as the Court's lone black member, Justice Thomas has, in a variety of contexts, carved out a distinctive voice that rejects mainstream civil rights positions as elitist, ineffective, and paternalistic.<sup>278</sup> He has also been a consistent proponent of interpreting the Fourteenth Amendment from the perspective of black authenticity rather than facilitating true racial integration. Justice Thomas has sought to position himself (and those for whom he speaks) as true inheritors of the black Civil Rights tradition. Thus, in the race cases in which he participated, Justice Thomas has referred approvingly to Frederick Douglass and W.E.B. Du Bois rather than contemporary black leaders.<sup>279</sup> In addition, he has also championed the plight of ordinary blacks who seek to succeed on their own terms,<sup>280</sup> and derided the patronizing assistance of university administrators, mainstream civil rights organizations, and white elites.<sup>281</sup>

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277. See Angela Onwuachi-Willig, *Just Another Brother on the SCT? What Clarence Thomas Teaches Us About the Influence of Racial Identity*, 93 IOWA L. REV. 931 (2005) (situating Justice Thomas's jurisprudence firmly within the mainstream of black conservative thought, a philosophy that distinguishes him from his conservative colleagues on the Court); Mark Tushnet, *Clarence Thomas's Black Nationalism*, 47 HOW. L.J. 323, 330-331 (2004) (critiquing Thomas's commitment to black nationalism: "Nationalism, though, is precisely the kind of group identity that Justice Thomas's individualism rejects."); Guy-Uriel E. Charles, *Colored Speech: Cross-Burnings, Epistemics and the Triumph of the Crips?* 51-52 (Minnesota Public Law Research Paper No. 03-18, 2003), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=463280](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=463280) (asserting that Justice Thomas "speaks from the perspective of a black conservative").

278. *Grutter v. Bollinger*, 539 U.S. 306, 350 (2003) (Thomas, J., concurring in part and dissenting in part) ("Racial discrimination is not a permissible solution to the self-inflicted wounds of this elitist admissions policy. The majority upholds the Law School's racial discrimination not by interpreting the people's Constitution, but by responding to a faddish slogan of the cognoscenti."); *Adarand v. Peña*, 515 U.S. 200, 240 (1995) (Thomas, J., concurring in part and concurring in the judgment) ("There can be no doubt that the paternalism that appears to lie at the heart of this program is at war with the principle of inherent equality that underlies and infuses our Constitution."); *Holder v. Hall*, 512 U.S. 874, 905 (1994) (Thomas, J., concurring) (referring to majority minority districts as "currently fashionable," and arguing that they cannot be supported under Section 2 of the Voting Rights Act).

279. Indeed, Justice Thomas began his lengthy dissent in *Grutter* with a portion of a speech delivered by Frederick Douglass in 1865. *Grutter*, 539 U.S. at 349 (quoting Frederick Douglass, *What the Black Man Wants: An Address Delivered in Boston, MA* (January, 26 1865), reprinted in 4 THE FREDERICK DOUGLASS PAPERS 59, 68 (J. Blassingame & J. McKivigan eds., 1991)). He explicitly linked his views with those of Frederick Douglass while simultaneously castigating the Law School. "Like Douglass, I believe blacks can achieve in every avenue of American life without the meddling of university administrators." *Id.* at 350; see also *Zelman v. Simmons-Harris*, 536 U.S. 639, 676-77 (2002) (Thomas, J., concurring) (citing Douglass); *United States v. Fordice*, 505 U.S. 717, 745 (1992) (Thomas, J., concurring) (citing Du Bois). As Mark Tushnet accurately suggested, Justice Thomas's references to Du Bois have been selective. Throughout Du Bois's long and prolific career he vacillated between more nationalist-oriented beliefs and those that might be called integrationist. Tushnet, *supra* note 277, at 331; see generally DAVID LEVERING LEWIS, W.E.B. DU BOIS, BIOGRAPHY OF A RACE 1868-1919 (1993). For a fuller discussion of Du Bois's views, see *infra* note 35.

280. Tushnet, *supra* note 277, at 330.

281. *Id.*

Justice Thomas's "authentic" black voice urges that race-based obstacles can eventually be overcome through the hard work and perseverance of black individuals, and by developing black institutions and communities without government intervention.<sup>282</sup> By categorizing white interests as out of step with the real needs of black folk,<sup>283</sup> this perspective conveniently demands nothing from mainstream white society and urges no systemic change. By speaking in a voice that secures its authority through reference to great black leaders of the past, while purporting to advance the under-represented interests of ordinary blacks, Thomas attempts to lend credence to his policy position. This authentic black voice also works to insulate particular policy positions from criticism as it purports to draw legitimacy from shared historical and cultural understandings.

Justice Thomas's concurring opinion in *Zelman v. Simmons-Harris*<sup>284</sup> exemplifies this use of an authentic voice. *Zelman* dealt with a voucher program, the Pilot Project Scholarship Program ("Pilot Program"), which provided students attending public schools in the Cleveland City school district with financial assistance to "attend a participating public or private school of their parent's choosing."<sup>285</sup> A majority of the students enrolled in the school district were from "low-income and minority families," and the district was clearly failing those students.<sup>286</sup> Under the terms of the Program, the financial assistance could be used at certain private school, including religious schools.<sup>287</sup> The vouchers could also be used at public schools,<sup>288</sup> providing a tuition grant for students to transfer from the city school district to a public school in an adjacent school district.<sup>289</sup> There was no requirement, however, that schools in adjacent (suburban) districts accept such students.<sup>290</sup> In the public context, the voucher program functioned as an incentive; suburban schools were offered the financial grant "in addition to the full amount of per-pupil state funding" to accept Cleveland

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282. *Grutter*, 539 U.S. at 372 (Thomas, J., concurring in part and dissenting in part) (arguing that the Law School's admissions scheme is a "cruel farce," and that blacks admitted under the scheme were "tarred as undeserving."); *Missouri v. Jenkins*, 515 U.S. 70, 114 (1995) (Thomas, J., concurring) (concurring in a judgment that invalidated a requirement that the state and school district fund significant educational enhancements and teacher salaries because the underlying constitutional violation had been eliminated notwithstanding ongoing racial imbalances).

283. *Grutter*, 539 U.S. at 374 (Thomas, J., concurring in part and dissenting in part) (characterizing the Law School's goal as "utopian" and "aesthetic").

284. 536 U.S. 639 (2002).

285. *Id.* at 645.

286. *Id.* at 644.

287. See *id.* Participating religious schools had to meet certain geographic requirements and educational standards, agree not to discriminate on the basis of certain protected categories, or to promote ethnic, racial, national origin or religious hatred. *Id.* During the 1999-2000 school year, 86% of the private schools participating in the Pilot Program were religiously affiliated. *Id.* at 647.

288. *Id.* at 646.

289. *Id.*

290. *Id.*



City school district students.<sup>291</sup> Ultimately, however, none of the surrounding suburban schools choose to participate in the Pilot Program.<sup>292</sup>

Chief Justice Rehnquist's majority opinion in *Zelman* focused exclusively on the constitutionality of the Pilot Program under the First Amendment. The Court ruled that the Pilot Program did not violate the First Amendment's prohibition against a governmental establishment of religion because it provided indirect rather than direct financial assistance to private, sectarian schools.<sup>293</sup> While the majority's subtext was clearly race (and class), its text was firmly grounded in First Amendment jurisprudence.<sup>294</sup>

The thrust of Justice Thomas's concurring opinion in *Zelman*, was not just that the Pilot Program was permitted under the First Amendment, but that school choice might even be required given the "core purposes" of the Fourteenth Amendment.<sup>295</sup> In his opinion, Justice Thomas recognized that education was a vital component in securing the "civic, political, and personal freedoms conferred by the Fourteenth Amendment."<sup>296</sup> Thus, education is democracy enhancing, promotes a "more egalitarian culture," and is necessary to function in a "high-tech and advanced society."<sup>297</sup> Given the importance of education, it was particularly problematic that the Cleveland school system was so grievously failing its minority students. From Justice Thomas's perspective, school choice was the solution to this conundrum. This solution had to include private religious schools because they provided better educational outcomes than the Cleveland public schools as measured by students' performance on proficiency tests.<sup>298</sup>

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291. *Id.*

292. *Id.* at 647.

293. *See id.* at 652-53.

294. More specifically, Chief Justice Rehnquist began by noting that the Establishment Clause prohibits governmental actions which have the "purpose" or "effect" of advancing or inhibiting religion." *Id.* at 648-49. According to the Court, the Pilot Program's purpose was valid and undeniably secular: "providing educational assistance to poor children in a demonstrably failing public school system." *Id.* at 649. The subsequent question of religious effect, turned on the distinction between the actions of private individuals that might indirectly provide financial assistance to religious schools, and governmental financial assistance that directly aids sectarian schools. *Id.* at 649-50. In situations where aid to religious schools was effectuated because of "true private choice," the government does not advance religion in violation of the Establishment Clause. *Id.* In the context of a program in which both public and private schools participated, governmental neutrality was evidenced by parents rather than the state choosing "to expend government aid at a religious school." *Id.* at 651. Religious schools obtained state aid through a two-step, indirect process; that the state provided aid to parents who subsequently exercised independent determinations with respect to their child's education provider was dispositive. *Id.* at 653-54. Indeed, anyone looking at the Pilot Program "would reasonably view it as one aspect of a broader undertaking to assist poor children in failed schools, not as an endorsement of religious schooling in general." *Id.* at 655. Consequently, the Court ruled that the Pilot Program did not offend the First Amendment. *Id.* at 662-63.

295. *Id.* at 682 (Thomas, J., concurring).

296. *Id.* at 680.

297. *Id.* at 681-82.

298. *See id.* at 681.

At this point in the opinion, Thomas spoke in the “authentic” voice of ordinary blacks doing their best to succeed despite significant obstacles: “poor urban families just want the best education for their children . . . .”<sup>299</sup> This voice was aligned with blacks who supported public education during Reconstruction—thus providing his perspective with historical pedigree—and who now “support school choice programs because they provide the greatest educational opportunities for their children in struggling communities.”<sup>300</sup> This rhetorical approach lent Justice Thomas’s interpretation of the Fourteenth Amendment a certain kind of epistemic authority.<sup>301</sup> Suggesting allegiance to ordinary blacks countered the position of the NAACP and the NAACP Legal Defense and Educational Fund, organizations which had not supported the voucher plan in part because it “contain[ed] the seeds of educational resegregation.”<sup>302</sup>

Justice Thomas was not incorrect in suggesting that many blacks support vouchers,<sup>303</sup> given that poor black children are often caught in failing inner-city schools. Consequently, black parents’ concerns are often practical rather than philosophical, seeking a solution that provides their children with the best possible education.<sup>304</sup> These practical concerns certainly reflect current realities, and I am very sensitive to the constrained choices provided to individual parents. But Justice Thomas’s reference to black support of vouchers was not just a passing observation of these current realities. Instead, adopting an “authentic” voice was an effective rhetorical strategy which served to insulate Justice Thomas’s argument from the

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299. *Id.* at 682.

300. *Id.*

301. See Charles, *supra* note 277, at 41-54. Charles suggests that epistemic authority and epistemic deference explain why Justice Thomas’s constitutional interpretations carry more weight with his colleagues in some contexts rather than others. Epistemic authority is the philosophical concept that “one believes a factual proposition or accepts a factual assertion as true because someone else—the epistemic authority—said that it is true.” *Id.* at 41-42. In such contexts, the epistemic authority possesses a “superior knowledge” about the issue at hand to which others must defer. *Id.* at 49. Epistemic authority and epistemic deference, then, are analytical tools used to resolve uncertainty. *Id.* at 42. Thus, the other members of the Court defer to Justice Thomas’s interpretation only when they believe that he is “represent[ing] the views of citizens of color.” *Id.* at 48.

302. Brief for the NAACP Legal Defense and Educational Fund, Inc. & the National Association for the Advancement of Colored People as Amici Curiae Supporting Respondents at 27, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2003) (Nos. 00-1751, 00-1777, 00-1779), 2001 WL 1638648. Instead, these organizations argue that the voucher plan was resegregative because it drained white students from the Cleveland public schools by directing governmental support to sectarian institutions and because none of the “predominantly white suburban school systems surrounding the city participate[d] in the program.” *Id.* at 13.

303. Denise C. Morgan, *The Devil is in the Details: Or, Why I Haven’t Yet Learned to Stop Worrying and Love Vouchers*, 59 N.Y.U. ANN. SURV. AM. L. 477, 481 (2003) (“Polls show that 57% of all Black Americans, and 75% of Black Americans under the age of thirty-five, say that they support school voucher programs.”).

304. See *id.* at 478-80.

critique that voucher plans actually undermine key goals of true integration for all public school children.<sup>305</sup>

Now, let us now examine Justice Thomas's opinion in *Zelman* from a radical integration perspective. His conclusion, that school vouchers are entirely consistent with the Fourteenth Amendment given the program's beneficiaries,<sup>306</sup> is bolstered by reference to the plight of "ordinary" blacks.<sup>307</sup> Justice Thomas contrasts the needs of "underprivileged minority students,"<sup>308</sup> with the views of the "cognoscenti" who press "the romanticized ideal of universal public education."<sup>309</sup> Here, Justice Thomas draws an important contrast.

On one hand, students need an effective education, which Justice Thomas narrowly defines as skill enhancement and the ability to obtain a degree.<sup>310</sup> However, such a vision of education vastly understates its importance in enhancing status, and providing access to social capital and information networks.<sup>311</sup> In addition, the need for a sound education seems unencumbered by any push toward desegregation. Indeed, Justice Thomas suggests that the appropriate way to combat societal racial discrimination is by the provision of vouchers; however, his opinion is profoundly silent with respect to the myriad harms created by racial segregation.

On the other hand, the provision of "universal public education,"<sup>312</sup> is linked to romantic, elitist notions.<sup>313</sup> And while he does not explicitly link universal public education with either integration or desegregation, he implies that those concepts are the province of a naïve elite and are therefore undeserving of serious consideration. Indeed, in quoting Thomas Sowell, Justice Thomas implies that racial integration is something that authentic blacks would not champion: "Most black people have faced too many grim, concrete problems to be romantics. They want and need certain tangible results, which can be achieved only by developing certain specific

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305. This is not to say that a voucher program could not be structured to enhance rather than to diminish integration. Indeed, several commentators have fastened on the revolutionary potential that voucher programs possess if used to transverse urban-suburban public school boundaries. See Morgan, *supra* note 303, at 491-92; James E. Ryan and Michael Heise, *The Political Economy of School Choice*, 111 YALE L. J. 2043, 2047-48 (2002) (arguing that most school choice plans are "limited in scope" and that if significant gains are to be made with respect to academic achievement and racial and socioeconomic integration then choice plans must be "structured to allow a meaningful opportunity for poorer students to attend [public] schools outside of their neighborhoods and outside of their districts."); Paul Boudreaux, *Vouchers, Buses, and Flats: The Persistence of Social Segregation*, 49 VILL. L. REV. 55, 63-64 (2004).

306. *Zelman*, 536 U.S. at 681-82 (Thomas, J., concurring).

307. *Id.* at 682-83.

308. *Id.* at 677.

309. *Id.* at 682.

310. *Id.* at 682-83.

311. See discussion *supra* Part II.A.

312. *Zelman*, 536 U.S. at 682 (Thomas, J., concurring).

313. *Id.*

abilities.”<sup>314</sup> At its core, Thomas’s tone in *Zelman* is one of resignation; vouchers are an acceptable method of achieving educational equality precisely because “society cannot end racial discrimination.”<sup>315</sup> In this manner, Thomas’s vision of authentic blacks’ needs counsels toward offensive retreat rather than radical integration.

### CONCLUSION

I began this Article with a story that haunted me since it happened: my niece’s refusal to swim in that pool on a hot summer day not long ago. The seeming simplicity of that story belies the complicated issues woven behind it, most notably the pernicious effects of segregation and the complexities of black identity formation. In this Article, I unpacked some of those issues, and articulated a vision of radical integration that harmonizes dissonant approaches to achieving racial equality. I have argued that instrumental equality can only be achieved when we recommit ourselves to eradicating segregation. At the same time, we must not lose sight of the importance of black identity formation. This challenge is difficult; but I do not believe it is impossible. Radical integration provides a new framework within which to view public policy from the perspective of marrying these two seemingly competing visions: integration and the identity-based, community-centered vision. By harmonizing these approaches, I believe we have a stronger ability to envision true racial equality.

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314. *Id.* (quoting THOMAS SOWELL, *BLACK EDUCATION: MYTHS AND TRAGEDIES* 228 (1972)).

315. *Id.* at 683.